



**CITY COUNCIL AND LOCAL CONTRACT REVIEW BOARD
BOARD MEETING AGENDA
Monday, August 18, 2014 - 6:00 PM
Council Chambers**

The City Council will hold a meeting on Monday, August 18, 2014, at 6:00 PM. The City Council meeting will be held in the Council Chambers, City Hall, located at 169 S.W. Coast Highway, Newport, Oregon 97365. A copy of the agenda follows.

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting to Peggy Hawker, City Recorder at 541.574.0613.

The City Council reserves the right to add or delete items as needed, change the order of the agenda, and discuss any other business deemed necessary at the time of the meeting.

Anyone wishing to speak at a Public Hearing or on an agenda item should complete a Public Comment Form and give it to the City Recorder. Public Comment Forms are located at the entrance to the City Council Chambers. Anyone commenting on a subject not on the agenda will be called upon during the Public Comment section of the agenda. Comments pertaining to specific agenda items will be taken at the time the matter is discussed by the City Council.

Agenda

- I. Pledge of Allegiance
- II. Call to Order and Roll Call
- III. Public Comment
This is an opportunity for members of the audience to bring to the Council's attention any item not listed on the agenda. Comments will be limited to three (3) minutes per person with a maximum of 15 minutes for all items. Speakers may not yield their time to others.

Proclamations, Presentations, and Special Recognitions

- IV. **Any formal proclamations or recognitions by the Mayor and Council can be placed in this section. Brief presentations to the City Council of five minutes or**

less are also included in this part of the agenda.

IV.1. Proclamation of Appreciation to Lincoln County Sheriff's Office Chief Civil Deputy Christie Meister on her Retirement

IV.2. Proclamation of Appreciation to Pamela Salisbury in her Retirement from the Children's Advocacy Center

Consent Calendar

V. The consent calendar consists of items of a repeating or routine nature considered under a single action. Any Councilor may have an item on the consent agenda removed and considered separately on request.

V.1. Regular City Council Minutes from July 21, 2014

V.2. Work Session Minutes from July 21, 2014

Public Hearing

VI. This is an opportunity for members of the audience to provide testimony/comments on the specific issue being considered by the City Council. Comments will be limited to three (3) minutes per person.

VI.1. Public Hearing and Possible Adoption of an Ordinance No. 2088- an Ordinance Vacating Portions of SW 31st Street, SW 32nd Street, SW 33rd Street, SW Coho Street, SW Brant Street, SW Abalone Street and SW Anchor Way

VI.2. Public Hearing and Possible Action the Adoption of Ordinance No. 2070-Ordinance Repealing and re-enacting Chapter 11:10 of the Newport Municipal Code through the adoption of the 2014 Oregon Fire Code

VI.3. Public Hearing and Possible Action Authorizing the Design, Construction, and Acquisition of a Community Electronic Message Sign by the City of Newport to be Located on the NW Corner of US 101 and Hurbert Street as Proposed by City Center Newport Association.

Communications

VII. Any agenda items requested by Mayor, City Council Members, City Attorney, or any presentations by boards or commissions, other government agencies, and general public will be placed on this part of the agenda.

VII.1. From the Destination Newport Committee – Recommendation for Awarding a Tourism Marketing Grant to the OCCC Foundation & Oregon Coast Aquarium for the Promotion of the 2014 Oyster Cloyster

VII.2. From the Destination Newport Committee - Recommendation for Awarding a Tourism Marketing Grant to the Newport Symphony for the Promotion of the 2014-15 Concert Season Expansion

VII.3. From the Oregon Coast Council for the Arts - Signage From the Oregon Coast Council for the Arts – Request to Initiate a Zoning Code Change to Allow for Electronic Signs in a Public Zone

City Manager Report

VIII. All matters requiring approval of the City Council originating from the City Manager and departments will be included in this section. This section will also include any status reports for the City Council's information.

VIII.1. Authorization to Submit a Request for an Oregon Coastal Management Program Technical Assistance Grant to Fund Development Strategies for Promoting the Construction of Student Housing

VIII.2. Report to the City Council on Possible Policies to Reduce False Alarms within the City of Newport for Police and Fire Calls.

VIII.3. Status Report Sewer Main Failure at Schooner Landing Resort

Local Contract Review Board Agenda

IX. The City Council serves as the Local Contract Review Board for certain purchases and contracts. Matters requiring approval of the Local Contract Review Board are included in this section of the agenda. The Mayor will call the Local Contract Review Board to order and will adjourn the meeting to complete the remaining City Council meeting.

IX.1. Approval of Addendum No. 2 to Task Order No.1 with HDR Engineering Services for the Big Creek Dams 1 & 2 Seismic Evaluation

IX.2. Authorization to Procure T770 Bobcat Compact Track Loader with Forestry Cutter Attachment

IX.3. Approve procurement of RAVO 5-series Street Sweeper

Reports from Mayor and Council

X. **This section of the agenda is where the Mayor and Council can report any activities or discuss issues of concern.**

Public Comment

XI. **This is an additional opportunity for members of the audience to provide public comment. Comments will be limited to five (5) minutes per person with a maximum of 15 minutes for all items. Speakers may not yield their time to others.**

Adjournment

XII. Adjournment



**PROCLAMATION OF APPRECIATION TO
LINCOLN COUNTY SHERIFF'S OFFICE
CHIEF CIVIL DEPUTY CHRISTIE MEISTER
ON HER RETIREMENT**

WHEREAS, Lincoln County Sheriff's Office Chief Civil Deputy Christie Meister has been employed by the Lincoln County Sheriff's Office for over thirty-seven years; and

WHEREAS, Chief Meister's entire career has been with the Lincoln County Sheriff's Office; and

WHEREAS, Chief Meister rose in rank from Matron/Clerk/Dispatcher to that of Chief Civil Deputy, and

WHEREAS, Chief Meister has been instrumental in maintaining the viability of the records management system, which is shared with the Newport Police Department; and

WHEREAS, Chief Meister has worked hard to cooperate and work with all law enforcement agencies in Lincoln County including the Newport Police Department, and this partnership has helped serve the citizens of Newport in the detection and prevention of crime.

NOW, THEREFORE, I, Laura Swanson, Council President of the City Council of the City of Newport, Oregon, do hereby proclaim the city's gratitude and appreciation to Chief Civil Deputy Christie Meister upon her retirement from the Lincoln County Sheriff's Office.

Laura Swanson, Council President



**PROCLAMATION OF APPRECIATION TO
PAMELA SALISBURY
ON HER RETIREMENT FROM THE CHILDREN'S ADVOCACY CENTER**

WHEREAS, Pamela Salisbury has been employed by the Children's Advocacy Center of Lincoln County for more than seven years; and

WHEREAS, for the last six years, Ms. Salisbury has been the Executive Director of the Children's Advocacy Center; and

WHEREAS, the Children's Advocacy Center is a non-profit organization that strives to reduce trauma to known and suspected child abuse victims through effective evaluation, treatment, and advocacy in a secure, culturally sensitive, healing environment while working to prevent child abuse in all forms, and

WHEREAS, Ms. Salisbury's background in nursing and health administration has had a positive effect on the morale of the Center's employees; and

WHEREAS, Ms. Salisbury has been successful in guiding the Center through difficult financial times to include actively searching, applying for, and managing grants for the Center; and

WHEREAS, Ms. Salisbury has not been afraid to 'get into the trenches' when needed to help provide immediate care to victims.

NOW THEREFORE, I, Laura Swanson, Council President of the City Council of the City of Newport, do hereby proclaim the city's gratitude and appreciation to Pamela Salisbury upon her retirement from the Children's Advocacy Center of Lincoln County.

Dated: August 18, 2014

Laura Swanson, Council President

July 21, 2014
6:00 P.M.
Newport, Oregon

The City Council of the City of Newport met on the above date in the Council Chambers of the Newport City Hall. On roll call, Roumagoux, Allen, Beemer, Busby, Sawyer, and Saelens were present. Swanson was excused.

Staff present was City Manager Nebel, City Recorder Hawker, Community Development Director Tokos, Public Works Director Gross, and Police Chief Miranda.

PLEDGE OF ALLEGIANCE

Council, staff, and the audience participated in the Pledge of Allegiance.

PROCLAMATIONS, PRESENTATIONS, AND SPECIAL RECOGNITIONS

Roumagoux proclaimed August 5, 2014 as National Night Out in the City of Newport. Miranda accepted the proclamation.

CONSENT CALENDAR

The consent calendar consisted of the following items:

- A. Approval of City Council Minutes from the regular meeting of July 7, 2014.

MOTION was made by Beemer, seconded by Sawyer, to approve the consent calendar with the changes to the minutes as noted by Allen. The motion carried unanimously in a voice vote.

PUBLIC HEARING

Public Hearing and Possible Adoption of Ordinance No. 2069 Establishing Business License Endorsement Standards for Medical Marijuana Facilities and Repealing a Temporary Moratorium on the Establishment of Such Facilities. Hawker introduced the agenda item. Nebel reported that at the July 7, 2014, Council meeting, the Council heard a report from the Business License Ordinance Review Work Group relating to the possible local regulation of medical marijuana dispensaries. He added that following this report, the Council directed staff to prepare an ordinance containing the standards that were outlined by the Business License Ordinance Review Work Group. He stated that House Bill 3460, which became effective on March 1, 2014, allows for the establishment and registration of medical marijuana facilities in the state. He noted that the Legislature then recognized that additional clarity was needed in these provisions and approved SB1531 which explicitly allows cities to adopt reasonable regulations for the operation of medical marijuana dispensaries and to impose temporary moratoriums until May 1, 2015. He added that in accordance with this new legislation, the City Council did

approve an ordinance that created a moratorium to allow the city to consider further regulatory effects related to medical marijuana dispensaries. He stated that the City Council forwarded the matter to the Planning Commission to determine whether the city should adopt local standards as provided for in SB1531. He noted that the Planning Commission did not think any further land use regulations would be required for these types of facilities, but did recommend that the City Council adopt standards regulating the conditions under which a facility may dispense medical marijuana.

Nebel reported that Council asked the Business License Ordinance Review Work Group to consider the Planning Commission recommendations. He noted that the Business License Ordinance Review Work Group provided a report to the City Council which was received at its July 7, 2014 meeting. He stated that Council requested staff to develop a draft ordinance for Council consideration implementing the findings of the Business License Ordinance Review Work Group. He added that there was a question in regard to requiring certain insurance coverages for these facilities. He noted that Lauren Sommers, an attorney with Speer Hoyt LLC, has reviewed the ordinance and indicated that liability insurance requirements can be problematic for regulators in that if the entity fails to assure a business has liability insurance and a claim is made, the Oregon Supreme Court has indicated that cities can be liable for those damages. He stated that as a result, staff is not recommending that any specific liability insurance be required by the city as part of the business license, which would be consistent with the way that other businesses are handled by the city.

Nebel reported that Ordinance No. 2069 amends the Municipal Code as it relates to business licenses to create a special endorsement for medical marijuana dispensaries. He added that in addition to dispensaries meeting the Oregon Health Authority requirements to receive a state license, local applicants will need to provide to the city proof of state registration, and criminal background checks for the owner/manager and all employees of the facility. He stated that the ordinance establishes a condition that requires the person responsible for the facility and any employees working at the facility to cooperate with the city during an inspection authorized by this ordinance. He noted that the city will have the same access to all video surveillance records and recordings as required by the Oregon Health Authority.

Nebel reported that the ordinance provides that a medical marijuana facility endorsement will allow a facility to sell medical marijuana in accordance with state statute, but does not constitute a waiver of any law imposed by any federal, state, or local entity.

Nebel reported that the ordinance provides criterion for successfully passing a background check, allows the Council to set fees by resolution for the endorsement and background checks, and provides a process for issuing the medical marijuana facility endorsement. He added that the ordinance provides that the city may conduct a compliance inspection following the receipt of a complaint that alleges that a medical marijuana facility is violation of any of the terms of this chapter.

Nebel recommended that Council conduct a public hearing on the approval of Ordinance No. 2069, an ordinance repealing a temporary moratorium on the establishment of medical marijuana facilities and authorizing such facilities subject to business license endorsement standards.

Roumagoux opened the public hearing at 6:11 P.M. She called for public comment.

Art Hanson, who has a provisional license from the state to open a dispensary, indicated support for the ordinance. He added that the fees should be consistent and fair.

There was no further testimony, and Roumagoux closed the public hearing at 6:14 P.M. for Council deliberation.

Allen reported that Council had received an e-mail this afternoon from Lauryn Cummings-Morford who requested that her information be placed in the record. He noted that it is a lengthy message, but copies are available from the staff.

Allen reported that a revised ordinance had been sent to Council, and that two further changes need to be made. They are: the first line should read "regular" legislative session, rather than "special" legislative session. The final change is to 4.20.025(2) where the OAR reference in the last line should read 333-008-1180(2)(e) rather than 333-008-1180(2)(d). He noted that the accompanying resolution also contains a reference.

MOTION was made by Allen, seconded by Sawyer, to read Ordinance No. 2069, with the two minor changes as noted tonight, which is an ordinance repealing a temporary moratorium on the establishment of medical marijuana facilities, and authorizing such facilities subject to business license endorsement standards, by title only, and place for final passage. The motion carried unanimously in a voice vote.

Hawker read the title of Ordinance No. 2069. Voting aye on the adoption of Ordinance No. 2069 were Sawyer, Saelens, Roumagoux, Busby, Beemer, and Allen.

Sawyer asked about the threshold that would trigger a rejection of an application, and suggested publishing the threshold in advance.

Public Hearing and Consideration of Resolution No. 3687 Adopting a Time Frame and Criteria for Hiring a City Attorney. Hawker introduced the agenda item. Nebel reported that on June 18, 2014, Rob Connell resigned his position as City Attorney. He stated that in a special meeting held on June 23, 2014, the City Council agreed to have Busby and Swanson work with staff to develop an RFP for City Attorney. He added that this report was presented to Council on July 7, 2014. He noted that the Council authorized advertising for a staff attorney as an employee, and for the issuance of an RFP from individuals or firms interested in providing City Attorney services on a contractual basis. He stated that as part of this process, Council also scheduled a public hearing on July 21, 2014, on Resolution No. 3687, which outlines the criteria and time frame for hiring a City Attorney.

Nebel reported that the process outlined in the resolution provides for two parallel courses of action in regard to hiring a City Attorney which will allow for either an employee or a consulting relationship for these services. He stated that the deadline for submission of proposals and job applications is August 15, 2014, at 3:00 P.M. He added that materials will be provided to the City Council on or before August 21, 2014, with a special meeting being scheduled for August 25, 2014, at noon for the City Council to review proposals and applications. He noted that the employee candidates and the consulting attorneys will participate in interviews that will include department heads and the City Council on September 4, 2014, beginning at 9:00 A.M. He added that it is important to keep that entire day open since, depending on the number of individuals or firms interviewed, the interview process could consume a significant portion of the day.

Nebel reported that he appreciates the efforts of Hawker in pulling this information together and incorporating the comments made by Speer-Hoyt as well as former City Attorney, Rob Connell. He added that the review of applications and proposals, and actual interviews, is proposed to be conducted in executive session. He noted that Speer Hoyt intends to submit a proposal for consideration. He added that Speer Hoyt has been acting in the City Attorney capacity during the interim period.

Nebel recommended that Council hold a public hearing on the approval of Resolution No. 3687, adopting a time frame and criteria for the hiring of a City Attorney.

Allen stated that he abstained from discussion on this issue on June 23 and July 7. He noted that after Connell's resignation was announced, he reviewed the general duties of the position with some local attorneys, and in light of that review, he prefers to abstain. He added that under City Council Rules, he can abstain on voting if given permission by the City Council, which he was previously given. He stated that he has abstained from discussion and voting on this issue when it was previously discussed, and will abstain tonight.

Roumagoux opened the public hearing at 6:26 P.M. She called for public comment. There was none. She closed the public hearing at 6:27 P.M. for Council deliberation.

MOTION was made by Saelens, seconded by Sawyer, to adopt Resolution No. 3687, which establishes a time frame and criteria for the City Council's hiring of a City Attorney through either an employee relationship or contractually. The motion carried in a voice vote with Allen abstaining.

COMMUNICATIONS

From Mayor Roumagoux and Councilor Allen - Support from the City of Newport for the Expansion of Oregon State University's Hatfield Marine Science Center. Hawker introduced the agenda item. Nebel reported that on Tuesday, July 15, 2014, that he, Roumagoux, Allen, and Tokos, met with Robert Cowen, Director of the Hatfield Marine Science Center, to discuss the opportunity that was announced at the June 30, 2014, Town Hall meeting. He noted that Cowen outlined the plan to expand the facility to create a 500 student campus at the HMSC geared toward students completing their education at OSU. He added that the approach is for a multi-disciplinary program to provide practical experience relative to the overall mission of the HMSC.

Nebel reported that Lincoln County recently announced an appropriation of \$15,000 to conduct an economic study of the impact that this facility would have on the Oregon coast. He noted that in discussing this issue with Roumagoux and Allen, it was suggested that the City Council formally go on record as supporting this endeavor and communicate that support to OSU. He added that a letter of thanks could be directed to Lincoln County for its role in supporting this important initiative for the Oregon coast.

Allen noted that the \$20 million challenge grant that was awarded to HMSC will require significant other funding. He added that a letter from the city is the beginning of the type of support that should be coming from the coast in respect to the endeavor. He supported a letter of thanks to the Lincoln County Commissioners. It was suggested that Roumagoux and Nebel jointly sign the letter. Allen noted that it is important to acknowledge the amount of money the city has put into infrastructure development in South Beach.

MOTION was made by Sawyer, seconded by Beemer, that a letter of thanks be written to Lincoln County for its support of an economic study of the impact of HMSC's

endeavor, and that a letter be written to OSU supporting the HMSC expansion, and that both letters be signed jointly by the Mayor and City Manager. The motion carried unanimously in a voice vote.

From the City Center Newport Association - Electronic Message Sign at the Corner of Hurbert Street and US 101. Hawker introduced the agenda item. Nebel reported that on behalf of the City Center Newport Association, Frank Geltner and Zach Pool have been working on the development of an electronic message sign that would be used to announce various community events and would be placed at the northwest corner of US 101 and Hurbert Street in the city center area. He stated that this project was proposed as an alternative to a park development at this location that was designed and bid but deemed too expensive to move forward with after bids were received. He noted that the City Council had appropriated \$100,000 for this purpose, and of the \$100,000, \$90,000 is reserved for a city center project.

Nebel reported that the City Center Newport Association has been spearheading an effort to create a community message sign at this location that would not only benefit the city center but other venues within the city. He noted that a presentation was made by City Center Newport Association representatives to the City Council at the November 18, 2013 City Council meeting. He stated that during this meeting, there were a number of questions raised as to the community acceptance of the sign, operations and financial sustainability of the project after it is constructed, and questions regarding the overall design of the reader board. He noted that the packet contains a communication from Frank Geltner of the City Center Newport Association, which includes a financial analysis of the potential revenue that could be generated to help maintain the project. He added that there have been initial discussions with the Greater Newport Chamber of Commerce acting as the administrator for dealing with the signage operational issues. He stated that in reviewing the November 18, 2013 minutes which are included in the packet, there was discussion as to whether this project should go forward, and if the decision is made to go forward, that the committee will need city support to proceed with final design and procurement processes to make the sign a reality. He noted that there are a number of issues that the City Center Newport Association would like to explore with the city if the sign is permitted, including the timing restrictions on the routing of messages.

Nebel reported that at the November 18, 2013 Council meeting, there was some suggestion that prior to making a final decision on this project that citizen input be obtained. He noted that this project is not a private project, but would be conducted as a city project using room tax funds that have been reserved for a city center project. He stated that if the project were supported, it would be necessary to develop a specific plan that would provide revenue to help sustain the operation of the sign.

Nebel reported that in his previous community, the city operated two community message signs. He noted that the technology has improved dramatically to reduce maintenance and energy costs for operating these signs. He added that these signs fare well in subzero temperatures, but that he has not had experience with them in a corrosive salt air environment. He stated that they can play a role in informing the community of various events and activities, however they are limited in the amount of time a message is displayed, especially if there are several messages on the display.

Nebel reported that if Council is interested in going forward with this project, he recommends two steps be taken. He suggested that the City Center Newport Association develop an agreement with the Greater Newport Chamber of Commerce outlining the role that the Chamber would play in managing the messages and sign components once the structure is in place. He also recommended that public input be solicited, and that a public hearing be held at the August 18, 2014 City Council meeting, prior to making a final decision on the project.

Nebel reported that if a decision is made to go forward with this project, then the city would be involved in soliciting proposals for the construction of the sign including final design. He noted that since significant time has elapsed since the last presentation, it would be important for the City Center Newport Association to provide a current presentation on the plans for this project, and to determine whether the Council is interested in moving forward with the project or utilizing this funding for other community purposes.

Frank Geltner appeared on behalf of the City Center Newport Association. Karen and Ken Irwin, and Lorna Davis, were also in attendance. He noted that the City Center Newport Association has not done anything to encourage anyone relative to the project as the city has not made a decision. He added that when he sent Nebel the information, it focused on the price. He noted that there may be a need for reverse engineering to determine how much money will need to be spent on infrastructure. He added that the project may have to be scaled back to accommodate everything in the current budget. Geltner reported that Stephan will be presenting a series of lectures on Art Deco, and encouraged Council to attend.

Saelens noted that he is opposed to something that operates 24/7. He asked Geltner what has been done since November. Geltner reported that he has met with the Chamber, and it is also awaiting a city decision. He added that when he served as Executive Director of OCCA, he received many requests about event signage on the highway. He stated that this type of sign would be beneficial to the community.

Busby asked whether there are changes to the design. Geltner reported that he will discuss with Stephan the possibility of permanent deco artistic elements on the sides and base of the sign. Nebel noted that this would be a city-owned sign and any procurement would go through the city's public contracting process. He added that if Council is uncomfortable moving forward at this point, that could be direction to the City Center Newport Association and city staff.

MOTION was made by Busby, seconded by Beemer, to schedule a public hearing on a community electronic message sign to be located on the northwest corner of US 101 and Hubert Street in the city center at the August 18, 2014, City Council meeting at 6:00 P.M., to obtain community feedback on proceeding with the message sign as a city project. The motion carried unanimously in a voice vote.

From the Destination Newport Committee - Consideration of Production/Installation Contract with OnDisplay Advertising, LLC. Hawker introduced the agenda item. Nebel reported that the Destination Newport Committee has recommended that the city continue advertising on a billboard (building wallscape) which is located at SW 4th and Oak Streets in Portland by continuing a contract with OnDisplay Advertising, LLC. He stated that the advertising costs for this strategic location amounts to \$9,000 for each four-week period. He noted that the Destination Newport Committee has recommended

that the location be rented for a 36-week period which would be a total cost of \$81,000, plus production/installation costs of \$6,000 for a total of \$87,000. He added that the advertising period will run from January 5, 2015 through September 13, 2015. He noted that the contract with OnDisplay Advertising, LLC will not be executed until legal review is completed.

Lorna Davis noted that this has been a very good location for the city.

MOTION was made by Sawyer, seconded by Allen, that the City Council concur with the Destination Newport Committee and authorize the City Manager to execute an advertising contract with OnDisplay Advertising, LLC. for 36 weeks of display time on a billboard located at SW 4th and Oak Streets in Portland for a total of \$81,000, plus production and installation costs of \$6,000 for a total cost of \$87,000 beginning January 5, 2015 and running through September 13, 2015. The motion carried unanimously in a voice vote.

CITY MANAGER'S REPORT

Consideration of Resolution No. 3688 Adopting Fees for Business License Endorsements for Medical Marijuana Dispensaries. Hawker introduced the agenda item. Nebel reported that the City Council adopted Ordinance No. 2069 earlier this evening. He noted that the ordinance provides that fees be set by resolution. He stated that Resolution No. 3688 establishes two fees as part of the medical marijuana dispensaries business licenses ordinance. He added that one is an application fee for a medical marijuana facility endorsement, and the second is for background checks for employees of medical marijuana facilities. He noted that staff is proposing a fee of \$25 for the medical marijuana facility endorsement, and a fee of \$25 per employee background check to offset the city's expenses incurred in processing these endorsements. He added that a medical marijuana dispensary would be subject to regular business license fees as well.

Allen noted the change to the first line of the resolution, changing "special" legislative session to read "regular" legislative session. He also recommended a change to Section 2 which would read "The fee for background checks of employees of medical marijuana facilities is \$25.00 for each employee."

MOTION was made by Allen, seconded by Saelens, to adopt Resolution No. 3688, with the two minor changes, which establishes fees for medical marijuana facility endorsement applications in accordance with Ordinance No. 2069, in the amount of \$25 for a medical marijuana facility endorsement, and \$25 per employee for background check. The motion carried unanimously in a voice vote.

Consideration and Possible Adoption of a Memorandum of Understanding Between the Lincoln Community Land Trust, City of Newport, City of Lincoln City, and Lincoln County Related to Workforce Housing. Hawker introduced the agenda item. Nebel reported that in 2010 and 2011, in partnership with the state and local stakeholders, the city undertook a comprehensive update to the housing element of its Comprehensive Plan. He noted that this analysis demonstrated that the city lacks an adequate supply of affordable workforce housing units which makes it difficult for workers to find housing within the city limits. He stated that in 2013, the City Council deferred action on an agreement with the Lincoln Community Land Trust since it was determined that a

broader coalition should be brought together to address the workforce housing on a regional basis. He noted that since that time, discussions have ensued with Lincoln County and Lincoln City to provide base funding for administrative services that would be provided to the trust to support its mission to provide permanently affordable homeownership for working individuals and families in Lincoln County.

Nebel reported that this agreement was reviewed by the Planning Commission which indicated that they have invested considerable time and energy in updating the city's housing inventories. He stated that it was determined that in order for the city to realize an adequate supply of workforce housing, a proactive and creative strategy must be pursued. He added that with the recent announcement of Oregon State University's initiative to expand student enrollment by 500 students at the Hatfield Marine Science Center campus, the community will see an expansion of the current workforce to facilitate this activity. He added that the Planning Commission unanimously supported the investment of \$30,000 a year over a three-year period on a collaborative basis with Lincoln City and Lincoln County to support the hiring of a full-time staff person for the Lincoln Community Land Trust with the goal of the Land Trust becoming financially self-sufficient at the end of the three-year financial commitment.

Nebel stated that there is little doubt of the need for affordable workforce housing in the city. He added that the processes and methods for accomplishing that require a focused attention to meaningfully address the issue. He noted that he believes that the regional approach of the Lincoln Community Land Trust is an appropriate collaboration in which resources can be brought together to address this problem.

Nebel reported that Tokos serves on the Lincoln Community Land Trust Board of Directors, representing the interests of Newport, as disclosed in his report.

Rod Croteau, speaking on behalf of the Planning Commission, stated that the Planning Commission spent significant time on this issue, and urged positive consideration of the memorandum of understanding.

Bill Hall, Lincoln County Commissioner, recommended positive consideration of the memorandum of understanding. He recognized Allison Robertson, Land Trust board member from Lincoln City.

Allen noted that this memorandum of understanding indicates a sharing of costs, equal to \$30,000 from three entities, for a period of three years, for administrative costs. He added that the former agreement related to possibly utilizing city properties. He asked what other things, than the \$30,000 annual financial commitment, would be necessary to make this happen, and whether the donation of city properties will be necessary. It was noted that the Trust would look at a full range of options to prime the pump and facilitate the creation of workforce housing, and that the equitable nature will depend on whether the participants are willing to make land available. Tokos noted that the agreement was intentionally drafted without specifics. He added that revolving loan funds could be used; that all entities have properties in their inventory; and that the use of tax foreclosed properties may be an attractive option. He noted that because the agreement is open ended, discussions about making property available will occur on a case-by-case basis. Allen asked about the plan for budgetary self-sufficiency at the end of three years. Hall explained that the Trust is currently recruiting for a full-time director, and that the director will be charged with the creation of a permanent revenue stream through various methods. A discussion ensued regarding participation and contributions from other Lincoln County cities. Hall noted that the Cities of Toledo, Waldport, and

Yachats are paying a membership fee that is based on population. Tokos noted that there would be ongoing engagement with other entities. It was noted that annual reporting will be expected including information on how the program is being broadened.

Sawyer stated that if this is approved this evening, the city needs to make a commitment to provide properties.

Busby noted that the agenda item is not the entire package, and the goal is to obtain properties from the city over the next few years. He added that this project commits this money to very few people and equates to giving five or six people a check for \$50,000. He stated that he does not think the city should be in the housing business, but that there are other ways to do it, including incentivizing private businesses. He stated that this is a \$500,000 venture, not just \$30,000, and that he does not think this is a good priority in light of not adding an emergency planning position.

Beemer reported that he tries to spend the city's money in the same way he spends his own. He added that if this passes, he would be astonished if six houses are built in Newport at the end of three years. He asked Hall what he would consider to be a total success at the end of three years. Hall stated that he would consider success to be ten houses county-wide, and hopefully more depending on the willingness of jurisdictions to commit resources.

Sawyer stated that if this passes, properties should be transferred to the Trust immediately so that could begin building right away. He added that there is a housing problem in the county.

Tokos reported that this would not be all new construction; some would be rehabilitation of existing properties; and that with tax foreclosed properties, the housing could be in Newport or elsewhere. He added that a lot of people work in Newport but do not live here. He stated that this is a county-wide challenge.

Allen addressed the issue of potential housing needs with the expansion of the HMSC. He noted that it was expressed at the Town Hall meeting that Wilder might be interested, and that this might be a driving force in the private sector to meet some of those needs.

Nebel shared a few observations: the city has lost employees due to inability to find permanent affordable housing in the community; there is not one fixed method in addressing this issue; the group has tried to put together a plan to address this issue, and has gone as far as possible; this does not exclude private solutions; this does not specifically include city land which would need Council authorization to sell; and if the area is to grow economically, there needs to be adequate housing for workers in the community. Beemer noted that this is a problem that affects apartments as well as single-family dwellings. Other employees facing same issue. There is a problem having affordable housing.

Allen asked where the money will come from in the budget. Nebel reported that \$13,000 will come from the General Fund, and the balance from the revolving loan fund.

Hall stated that it is too narrow to believe that the program will help five or six people. He suggested considering the ripple effect and the fact that some current renters may move into the workforce housing units which could open up opportunities in the rental pool.

MOTION was made by Sawyer, seconded by Saelens, to enter into a Memorandum of Understanding with the Lincoln Community Land Trust, City of Newport, City of Lincoln City, and Lincoln County for a commitment to provide \$30,000 per year for a

three-year period in conjunction with the City of Lincoln City and Lincoln County to fund a staff person who will focus on the development of workforce housing on a regional basis. The motion carried in a voice vote with Busby voting no, and Allen, Beemer, Roumagoux, Saelens, and Sawyer voting yes.

Report and Consideration of Resolution No. 3689 Regarding the Establishment of a Task Force to Discuss the Regional Role of the Newport Municipal Airport. Hawker introduced the agenda item. Nebel reported that at the July 7, 2014 Council meeting, Busby requested that Council consider establishing a task force to look at the regional role the Newport Municipal Airport can play in the central coast. He stated that as a result, Council requested a report and recommendation from staff in order to develop the guidelines for such a task force. He added that he and Hawker have developed a resolution that outlines the possible structure of a task force including its responsibilities and deadline for completing the task. He encouraged Council to make modifications to the resolution to reflect the collective desires of Council.

Nebel reported that Allen suggested adding a member of the Airport Advisory Committee to the task force. Busby suggested two or three Airport Committee members. Roumagoux asked Busby to help identify potential Task Force members before she leaves on August 1. Roumagoux and Busby agreed to serve on the task force as Council Members. Allen suggested that the first line of the task force composition read "Council Members" rather than "City Councilors." It was the consensus of Council to add two Airport Committee members to the composition of the task force. Staff was asked to prepare individual letters to potential task force members.

MOTION was made by Sawyer, seconded by Beemer, to adopt Resolution No. 3689 which would establish a task force to discuss the regional impact of the Newport Municipal Airport with the addition of two Airport Committee members, and the change from "City Councilors" to "Council Members" in the first line of the task force composition. The motion carried unanimously in a voice vote.

Adoption of Legislative Priorities for the League of Oregon Cities. Hawker introduced the agenda item. Nebel reported that the City Council met in a work session and identified legislative priorities as requested by the League of Oregon Cities. He recommended that Council formally authorize the submission of its legislative priorities: as determined in the work session held earlier this evening.

MOTION was made by Sawyer, seconded by Beemer, to direct the City Manager to submit the following as the Council's top four legislative priorities: Pass a comprehensive transportation funding and policy package; Natural disaster planning; ConnectOregon funding; and Enhance mental health services. The motion carried unanimously in a voice vote.

LOCAL CONTRACT REVIEW BOARD MEETING

Roumagoux called the July 21, 2014 meeting of the Local Contract Review Board to order.

Approval of Addendum No. 1 to Task Order No. 8 for Bay-Moore Drainage Improvements - Environmental Issues with Civil West Engineering Services, Inc.

Hawker introduced the agenda item. Nebel reported that the city has previously authorized the design work for the Bay-Moore drainage improvements as part of this project. He added that it has been determined that dredging will be required in the bay which will entail more extensive environmental permitting obligations. He stated that the original scope of work did not anticipate this level of permitting. He noted that an addendum to Task Order No. 8 is being recommended by Gross in the amount of \$65,000. Gross reported that he expects this project to be built in the spring of 2015, and ideally complete the intersection improvements by next summer.

MOTION was made by Sawyer, seconded by Allen, to approve Addendum No. 1 to Task Order No. 8 for the Bay-Moore Drainage Improvements - Environmental Issues, with Civil West Engineering Services, Inc. in the amount of \$65,000 and authorize the City Manager to execute the addendum on behalf of the City of Newport. The motion carried unanimously in a voice vote.

Approval of Amendment No. 1 to Grant Consulting Services Agreement with Chase Park Grants, LLC. Hawker introduced the agenda item. Nebel reported that the city has benefited from the contractual services provided by Chase Park Grants, LLC. in two specific ways. He stated that Chase Park Grants has successfully secured substantial funding for the evaluation of the city's dam structures, water and wastewater projects, and by obtaining low interest loans and grants to facilitate the city's infrastructure rebuilding projects. He stated that Chase Park Grants have been successful in finding unique ways to combine programs to provide a high benefit back to the city. He cited, as an example, the Bay Boulevard project will obtain a significantly lower interest rate by combining two programs to accomplish both the stormwater and other utility work at the same time. He stated that Gross recommends that the current agreement with Chase Park Grants be extended for an additional year. Nebel reported that Gross has also requested an increase in the hours from last year's agreement to deal with the issues outlined in Task 1 project management, and Task 2 general research and eligibility determination. He added that for this work, the consultant will be paid an amount not to exceed \$12,267 monthly. He noted that in addition to the base contract, when specific projects are selected and require technical grant assistance, there will be a separate task order approved. Allen requested that staff provide a report on the savings recognized and the funds secured due to Chase Park Grants LLC.

MOTION was made by Sawyer, seconded by Allen, to approve amendment No. 1 to the Grant Consulting Services Agreement with Chase Park Grants, LLC, in the amount of \$144,256 and authorize the City Manager to execute the amendment on behalf of the City of Newport. The motion carried unanimously in a voice vote.

Approval of Specific Task Orders for FY2015 Technical Assistance Services - Chase Park Grants, LLC. Hawker introduced the agenda item. Nebel reported that the city has been utilizing Chase Park Grants, LLC. to provide grant preparation services. He stated that during 2015, there are five areas in which technical grant assistance is being anticipated including: Task Order 3.01 for wastewater/ sanitary sewer infrastructure; Task Order 3.02 for storm sewer infrastructure; Task Order 3.03 for Public Works facilities (Fire Station on 10th Street); Task Order 3.04 water supply and storage; and Task Order 3.05 water quality projects.

MOTION was made by Sawyer, seconded by Busby, to approve Task Orders No. 3.01 through 3.05 for technical grant assistance with Chase Park Grants, LLC, in the total amount of \$191,460 and authorize the City Manager to execute the task orders on behalf of the City of Newport. The motion carried unanimously in a voice vote.

RETURN TO CITY COUNCIL MEETING

REPORT FROM MAYOR AND COUNCIL

Roumagoux reported that she attended the Coast Guard Change of Command Ceremony on July 10. She reported that Chief Warrant Officer Ryan O'Meara replaced Robert Ornelas and took command of the facility that day.

Roumagoux reported that she attended the quarterly meeting with ODOT on July 10.

Roumagoux reported that she met with Bob Cowen, Tokos, Nebel, and Allen on July 15 to discuss the HMSC expansion.

Roumagoux reported that she attended the Chamber luncheon on July 16, and that Miranda was the speaker, and that he had done an excellent job.

Roumagoux reported that she attended a dinner and gave a welcome speech at the USS Juneau reunion which was held on July 19 at the American Legion.

Allen reported that he attended the Audit Committee meeting on July 16. He noted that Nebel, Gazewood, and Murzynsky also attended. He stated that the auditors have completed the initial field work, and that the next meeting is scheduled for October 16, 2014, at 1:00 P.M. to hear a report on the conclusion of the field work. He added that the Committee will meet and discuss the audit presentation that it plans to present to the City Council. He added that the audit will be completed and filed with the Secretary of State by the end of the year.

Beemer reported that he attended the Chamber luncheon, and that Miranda did a great job with his presentation.

Busby reported that the Public Arts Committee was unable to meet due to lack of a quorum. He added that the Public Arts Selection Panel met with the swimming pool committee earlier today.

Busby reported that the Airport Committee will meet tomorrow.

Saelens reported that the Wayfinding Committee was unable to meet due to lack of a quorum.

Saelens reported that he attended a recent meeting of the Bicycle/Pedestrian Advisory Committee.

Saelens reported that he attended a recent meeting of the Parks and Recreation Advisory Committee.

Saelens reported that as the City Council liaison to the swimming pool construction group, he has been busy attending meetings of the focus groups. He added that there is a public open house on the pool project tomorrow at 5:30 P.M., at the Recreation Center.

Sawyer reported that he attended a recent meeting of the COG. He stated that there had been a presentation by Nancy Boyer. He added that fees are increasing by \$358.58 to \$10,066.90 next year.

Sawyer reported that he attended a recent meeting of the Destination Newport Committee and heard a report on the banner in Portland. He stated that the Committee

had approved a marketing grant for the Oyster Cloyster. He added that the Committee had comprehensively reviewed the brochure and made good changes to the document.

Sawyer reported that he attended a recent meeting of the Tourism Facilities Grant Review Task Force. He noted that the Task Force received and reviewed the following requests: Salmon for Oregon - \$25,000 for its spring Chinook project; Pacific Communities Health District Foundation - \$50,000 for its education building; Lincoln County Historical Society - \$14,000 for entry signage at the Pacific Maritime History Museum; and the Sea Lion Docks Foundation - \$10,000 for its sea lion docks project.

Sawyer reported that he participated in a law enforcement community ice water challenge that is for a good cause. He noted that he was challenged by Officer Cummings.

Beemer reported that he is going to Philomath with Olaf Sweetman to attend a meeting on the Corvallis to Coast Trail. He added that the Mayor will attend the Port meeting in his stead.

Allen noted that the medical marijuana ordinance refers to an agreement with the facilities related to the list of conditions. He asked whether the City Attorney will be drafting the agreement that the city will be utilizing. Nebel noted that those documents will be prepared before the effective date of the ordinance. Allen requested that a copy of the documents be forwarded to the City Council.

ADJOURNMENT

Having no further business, the meeting adjourned at 7:54 P.M.

Margaret M. Hawker, City Recorder

Sandra N. Roumagoux, Mayor

July 21, 2014
5:30 P.M.
Newport, Oregon

The City Council of the City of Newport met in a work session on the above date in the Council Chambers of the Newport City Hall. On roll call, Roumagoux, Allen, Beemer, Busby, Sawyer, and Saelens were present. Swanson was excused.

Staff present was City Manager Nebel, City Recorder Hawker, and Police Chief Miranda.

ADDITIONAL WORK SESSION ITEMS NOT LISTED ON THE AGENDA

Roumagoux requested an excuse from the August 18, 2014 City Council meeting. MOTION was made by Saelens, seconded by Beemer, to excuse Roumagoux from the August 18, 2014 City Council meeting. The motion carried unanimously in a voice vote.

Allen raised the issue of the taxicab ordinance revision. He noted that the ordinance revision had been on hold to allow time for Ken's Cab to go through the application process. He added that he checked with staff and was advised that there had been no recent communication with Ken's Cab. He asked how Council wished to proceed on this issue, and suggested that it might be a topic of discussion for the Business License Working Group. Allen recommended that the current endorsement holder be notified so that it could comment at the working group level. It was the consensus of Council that the Business License Working Group discuss the taxicab licensing and endorsement provisions. It was suggested that the current Municipal Code section and the draft revised ordinance be distributed to the Business License Working Group.

DISCUSSION REGARDING LEGISLATIVE PRIORITIES FOR THE LEAGUE OF OREGON CITIES

Nebel reported that the top eight legislative priorities, as identified by Council and department heads are:

1. Pass a comprehensive transportation funding and policy package.
2. Natural disaster planning.
3. Telecommunications.
4. ConnectOregon funding.
5. Transient lodging tax statute.
6. Enhance mental health services.
7. Ensure that arbitrator's awards are in compliance.
8. Provide Brownfield fund.

Council discussed and established the following as its top four priorities:

1. Pass a comprehensive transportation funding and policy package;

2. Natural disaster planning
3. ConnectOregon funding
4. Enhance mental health services.

Nebel noted that the city could develop its own list of legislative priorities, and Allen stated that the Coastal Caucus is a forum to get specific issues to the forefront.

Allen noted that the LOC has policy committees that meet on an ongoing basis and develop topics to send to cities, with the LOC board making the final decision. He added that service on a policy committee is a good way to get city input into the legislative agenda.

ADJOURNMENT

Having no further business, the meeting adjourned at 5:52 P.M.

CITY MANAGER'S REPORT AND RECOMMENDATION



Agenda Item:

Public Hearing and Possible Adoption of an Ordinance No. 2088- an Ordinance Vacating Portions of SW 31st Street, SW 32nd Street, SW 33rd Street, SW Coho Street, SW Brant Street, SW Abalone Street and SW Anchor Way

Background:

On April 7, 2014, the City Council initiated the process to vacate portions of SW 31st Street, SW 32nd Street, SW 33rd Street, SW Coho Street, SW Brant Street, SW Abalone Street and SW Anchor Way in conjunction with the Newport Urban Renewal Agency. This effort is in coordination with the Oregon Museum of Science and Industry (OMSI), Investors XII, LLC, and Richard Murry (Toby Murry Motors) to reconfigure road rights-of-way adjoining these properties which will extend SW Abalone Street and provided for the construction of portions of SW 30th Street and SW 35th Street.

This matter was referred to the Planning Commission, who on July 14, 2014, recommended that the City Council proceed with the public hearing and consider adoption of an ordinance which would vacate the streets listed above.

If approved by the City Council, the street vacations will not be effective until the Plat of Sunset Dunes is recorded and a conservation easement is put into place over Lot 1, Block 1 of the plat. The conservation easement facilitates low impact public access to a coast gully and wetland area in a manner consistent with the plans developed with the South Beach community in 2012.

Please note that exhibit B in the City Council agenda item summary shows the proposed street vacations as well as the proposed new streets that will be created to reconfigure the traffic patterns to the property located to the west of 101 in South Beach.

Recommended Action:

I recommend the Mayor conduct a public hearing on the approval of Ordinance No. 2068, an ordinance vacating portions of SW 31st Street, SW 32nd Street, SW 33rd Street, SW Coho Street, SW Brant Street, SW Abalone Street and SW Anchor Way which would become effective once the Plat of Sunset Dunes is recorded and a conservation easement is put in place over Lot 1, Block 1 of the plat.

Following the public hearing I further recommend the City Council approve the following motion:

I move that the City Council adopt Ordinance No. 2068, an ordinance vacating portions of SW 31st Street, SW 32nd Street, SW 33rd Street, SW Coho Street, SW

Brant Street, SW Abalone Street and SW Anchor Way, be read by title only and placed for final passage.

The Mayor will then ask for a voice vote on whether to read the ordinance by title only and place for final passage.

If approved, the City Recorder will read the title of the ordinance.

A roll call vote on the final passage of the ordinance will then be requested by the Mayor and taken by the City Recorder.

Fiscal Effects:

None directly by vacating the streets. Please note there have been discussions with the various property owners regarding various property exchanges that include portions of the vacated streets. The Urban Renewal Agency will be responsible for any additional costs for acquiring new right-of-way as part of the rights-of-way that will be dedicated with the Plat of Sunset Dunes.

Alternatives:

None recommended.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "S. R. Nebel", is written over a faint, light blue circular stamp.

Spencer R. Nebel
City Manager



Agenda Item #

Meeting Date

August 18, 2014

CITY COUNCIL AGENDA ITEM SUMMARY

City of Newport, Oregon

Issue/Agenda Title Public hearing and possible adoption of an ordinance vacating portions of SW 31st Street, SW 32nd Street, SW 33rd Street, SW Coho Street, SW Brant Street, SW Abalone Street and SW Anchor Way

Prepared By: Derrick Tokos Dept Head Approval: DT City Mgr Approval: _____

ISSUE BEFORE THE COUNCIL: Consideration of whether or not it is in the public interest for the City of Newport to vacate portions of SW 31st Street, SW 32nd Street, SW 33rd Street, SW Coho Street, SW Brant Street, SW Abalone Street and SW Anchor Way. The rights-of-way at issue are located within the Harborton and Waggoner's Addition to South Beach subdivision plats, in Section 17, Township 11 South, Range 11 West of the Willamette Meridian. At its July 14, 2014 meeting, the Newport Planning Commission recommended the Council vacate these rights-of-way.

STAFF RECOMMENDATION: Staff recommends the City Council accept the Planning Commission recommendation and vacate the rights-of-way.

PROPOSED MOTION: I move for reading by title only of Ordinance No. 2068, an ordinance vacating portions of SW 31st Street, SW 32nd Street, SW 33rd Street, SW Coho Street, SW Brant Street, SW Abalone Street and SW Anchor Way. Such ordinance shall be adopted by roll call vote.

KEY FACTS AND INFORMATION SUMMARY: The Newport Urban Renewal Agency is coordinating with the Oregon Museum of Science and Industry (OMSI), Investors XII, LLC, and Richard Murry (Toby Murry Motors) to reconfigure road rights-of-way adjoining their properties in order to facilitate the extension of SW Abalone Street and the construction of portions of SW 30th Street and SW 35th Street. New rights-of-way need to be dedicated for this purpose. The Agency is creating the rights-of-way with a subdivision plat titled "Plat of Sunset Dunes" that was reviewed and approved by the Newport Planning Commission at its July 28, 2014 meeting.

Certain existing road rights-of-way on or adjacent to the MSI, Investors XII, and Richard Murry properties are not needed for public purposes. These rights-of-way are proposed to be vacated in conjunction with the rights-of-way that are being dedicated with the Plat of Sunset Dunes. While rights-of-way proposed to be vacated can be depicted on a plat, the actual method of vacating the rights-of-way follows a separate process that requires hearings before the Planning Commission and City Council as provided in NMC Chapter 14.52 and ORS Chapter 271.

On April 7, 2014, the Newport City Council initiated the process to vacate the above referenced streets. Criteria for the approval of a City initiated street vacation are listed under ORS 271.130. They require that a public hearing be held to consider the question of whether or not the public interest will be prejudiced by the street vacation, and that abutting and affected property owners receive notice of the public hearing as provided by ORS 271.110. Further, ORS 271.130 requires that abutting property owners consent to the street vacation if it will substantially affect the market value of their property unless the city provides for paying damages, and it prohibits a vacation from occurring if the owners of a majority of the area, computed on the basis provided in ORS 271.080, object in writing to the proposal. Findings contained in Ordinance No. 2068 establish that these criteria have been satisfied.

The proposed street vacations will be effective once the Plat of Sunset Dunes is recorded and a conservation easement is put in place over Lot 1, Block 1 of the plat. This is necessary because the legal descriptions for the rights-of-way that are being vacated tie to streets that are being created with the plat. The conservation easement facilitates low-impact public access to a coastal gully and wetland area in a manner consistent with plans developed with the South Beach community in 2012. Having this easement in place justifies vacating rights-of-way that would otherwise provide that access; therefore, it is necessary that the easement be recorded before the street vacations are effective.

OTHER ALTERNATIVES CONSIDERED: Requiring the property owners to vacate the rights-of-way independently. This would be a more cumbersome and complex process given the number of rights-of-way involved and would be difficult to correlate with rights-of-way the City is acquiring for future streets.

CITY COUNCIL GOALS: This effort is consistent with the Council's objective of working with its community partners to facilitate economic development.

ATTACHMENT LIST:

- Ordinance No. 2068, with attachments
- Copy of ORS 271.080 through 271.230, outlining street vacation processes
- July 14, 2014 Planning Commission meeting minutes
- Written Consent from abutting property owners
- Copies of legal publication, mailing, and posting notice for August 18, 2014 hearing

FISCAL NOTES: The Newport Urban Renewal Agency has covered the cost of preparing the subdivision plat and appraisals of the right-of-way being acquired and relinquished. The amount of due compensation to be paid for rights-of-way that are being acquired is being negotiated with the parties and will come out of funds budgeted in FY 14/15 for the roadway improvements.

After Recording Return to:

Margaret Hawker
City Recorder
City of Newport
169 SW Coast Hwy
Newport, OR 97365

CITY OF NEWPORT

ORDINANCE NO. 2068

AN ORDINANCE VACATING PORTIONS OF SW 31ST STREET, SW 32ND STREET, SW 33RD STREET, SW COHO STREET, SW BRANT STREET, SW ABALONE STREET, AND SW ANCHOR WAY

Summary of Findings:

1. On April 7, 2014, the Newport City Council initiated the process to vacate portions of SW 31st Street, SW 32nd Street, SW Coho Street, SW Brant Street, SW Abalone Street, and SW Anchor Way as provided in Oregon Revised Statutes (ORS) Chapter 271 for the purpose of assisting the Newport Urban Renewal Agency in its effort to reconfigure rights-of-way for future street development as depicted on the Plat of Sunset Dunes.

2. Legal descriptions for the rights-of-way that are to be vacated are attached as Exhibit A to this ordinance and the real property abutting the rights-of-way to be vacated is identified by tax lot reference and ownership, as follows:

a. SW 31st Street: Tax Lots 2803 and 3100 of Lincoln County Assessor's Map 11-11-17-CA. The properties are owned by the Oregon Museum of Science and Industry (OMSI).

b. SW 32nd Street: Tax Lots 3100 and 3700 of Lincoln County Assessor's Map 11-11-17-CA. The properties are owned by OMSI.

c. SW 33rd Street: Tax Lots 3500, 3501, 3600, 3700, 4400, 4401, 4402, 4600, 4601, 4700 and 4800 of Lincoln County Assessor's Map 11-11-17-CA. The properties are owned by OMSI.

d. SW Coho Street: Tax Lots 2703, 2803, 3100, 3200, 3600, 3700, 4400, and 4600 of Lincoln County Assessor's Map 11-11-17-CA. The properties are owned by OMSI.

e. SW Brant Street: Tax Lots 4601 and 4700 of Lincoln County Assessor's Map 11-11-17-CA. The properties are owned by OMSI.

f. SW Abalone Street: Tax Lot 4800 of Lincoln County Assessor's Map 11-11-17-CA. This property is owned by OMSI. Tax Lot 1400 of Lincoln County Assessor's Map 11-11-17-DC. This property is owned by Investors XII, LLC.

g. SW Anchor Way: Tax Lot 1800 of Lincoln County Assessor's Map 11-11-17-DB and Tax Lot 1400 of Lincoln County Assessor's Map 11-11-17-DC. These properties are owned by Investors XII, LLC. Tax Lots 1200 and 1201 of Lincoln County Assessor's Map 11-11-17-DB. These properties are owned by Richard Murry.

3. Criteria for the approval of a City initiated street vacation are listed under ORS 271.130. They require that a public hearing be held to consider the question of whether or not the public interest will be prejudiced by the street vacation, and that abutting and affected property owners receive notice of the public hearing as provided by ORS 271.110. Further, ORS 271.130 requires that abutting property owners consent to the street vacation if it will substantially affect the market value of their property unless the city provides for paying damages, and it prohibits a vacation from occurring if the owners of a majority of the area, computed on the basis provided in ORS 271.080, object in writing to the proposal. Findings contained in this ordinance establish that these criteria have been satisfied.

4. The Planning Commission of the City of Newport held a public hearing on July 14, 2014, for the purpose of reviewing the proposed street vacations and providing a recommendation to the City Council. Notice of the hearing was published in the Newport News-Times on July 4, 2014 and July 9, 2014. Notice of the hearing was mailed to abutting and affected property owners on June 23, 2014. The Planning Commission public hearing was held in accordance with the appropriate provisions of the Newport Zoning Ordinance and, after due deliberation and consideration of the proposed vacation, the Planning Commission, by a unanimous vote, recommended that the proposed street vacation be approved, provided the ordinance vacating the street rights-of-way is effective upon recordation of the Sunset Dunes subdivision plat and conservation easement over Lot 1, Block 1 of the plat.

5. It has been determined that, at the present time, no City liens are existing or unpaid against the property to be vacated and, by virtue of the fact that it is a dedicated right-of-way, no taxes are unpaid thereon.

6. The City Council fixed August 18, 2014, at 6 p.m. at the Newport City Hall, 169 SW Coast Highway, Newport, Oregon, as the time and place for a formal public hearing regarding the vacation.

7. The City Recorder gave notice of the public hearing by publishing a notice in the Newport News-Times newspaper once each week for three consecutive weeks on August 1, 2014, August 6, 2014, and August 13, 2014, which notice described the ground proposed to be vacated, the date the street vacation was initiated, the name of at least one of the petitioners (i.e. the City Council), the date of the public hearing, and the requirement that written objections or remonstrances must be filed with the City of Newport prior to the time of the hearing, in accordance with ORS 271.110(1). Notice of the hearing was mailed to affected property owners on July 23, 2014.

8. Within five (5) days after the first day of publication of said notice in the newspaper and not less than fourteen (14) days before the hearing date, the City Recorder caused a copy of the notice to be posted in at least two (2) conspicuous places at or near each end of

the proposed vacation, in accordance with ORS 271.110(2).

9. On August 18, 2014, at 6 p.m. at the Newport City Hall, the City Council held a public hearing in the Council Chambers on the vacation of the area described above and heard any written objections filed thereto, and heard oral testimony from members of the public in favor of and/or in opposition to the vacation.

10. The owners of the majority of the area affected, computed on the basis provided in ORS 271.080, have not objected in writing to the proposed vacation.

11. The market value of abutting properties will not be adversely affected by the street vacation because the rights-of-way are not needed for access purposes and the land accruing to abutting property owners as a result of the vacation increases the size and value of their respective properties. Further, in the case of the OMSI ownership, eliminating the right-of-way allows the property to be developed as a single block of land, which increases its value.

12. Abutting property owners have had an opportunity to review the proposed street vacation and have consented in writing to the vacation.

13. The Newport City Council finds that the policies it adopted on October 6, 2008, to guide when it will exercise its authority under state law to initiate a street vacation are sufficient to ensure the public interest will not be prejudiced. The Council considered how the subject proposal satisfied those policies when it elected to initiate the street vacation process on April 7, 2014, and concludes that the rationale set forth at that time continues to be compelling. It is summarized as follows:

a. The extent of public benefit. Vacating the subject rights-of-way provides a public benefit because it helps the City realize a better street system. With the exception of SW Anchor Way, the rights-of-way are unimproved and are not needed for future street development. While SW Anchor Way is improved, it effectively serves as an internal drive for two commercial properties and is; therefore, not needed as part of the public system. The Newport Urban Renewal Agency has collaborated with the abutting property owners to secure new rights-of-way with the Plat of Sunset Dunes that will facilitate the extension of SW Abalone Street, and the construction of portions of SW 30th Street and SW 35th Street. This effort is consistent with public outreach the City and Agency have undertaken over the last several years to update the Newport Transportation System Plan. Vacating these rights-of-way offsets the impact of the right-of-way acquisitions on abutting property owners. Further, eliminating rights-of-way internal to the OMSI ownership is necessary so that they may construct a new coastal science camp, which will add jobs, improve the appearance of the undeveloped lot, and enhance the character of the area through its focus on being a complimentary marine research and educational venue. Survey work performed by the Newport Urban Renewal Agency, depicted on the tentative subdivision plat for Sunset Dunes (File No. 1-SUB-13), shows that a portion of the as-travelled roadway for SW Anchor Way encroaches onto the adjoining commercial properties. Vacating the right-of-way eliminates the encroachment and will allow the commercial property owners to reconfigure the road in a manner that meets their needs.

b. The extent of present and anticipated future use of the right-of-way. A right-of-way is property dedicated to the public for use as a street, path, trail, or utility corridor. This policy must also be read in concert with Newport Municipal Code (NMC) Chapter 14.26 and ORS 271.300 to 271.360, which require rights-of-way be retained if they provide ocean access, unless adequately replaced. As noted, the undeveloped rights-of-way are not needed for future public streets and the only developed roadway, SW Anchor Way, does not need to remain a public street because it effectively serves just two commercial properties. Currently, SW 33rd Street provides public access through the OMSI property to the Pacific Ocean via South Beach State Park. OMSI will replace this access by dedicating right-of-way across the northernmost end of its lot so that SW 30th Street can serve this purpose. SW 30th Street is within a few hundred feet of SW 33rd Street making it an adequate replacement. OMSI will also dedicate a conservation easement over Lot 1, Block 1 of the Plat of Sunset Dunes. This area contains a coastal gully and wetland, along with portions of SW 31st Street and SW Coho Street that are proposed to be vacated. The 2012 Coho/Brant Infrastructure Refinement Plan calls for the gully and rights-of-way to be developed with low impact trails, a boardwalk and interpretive signage. Those trails will not conform to the rights-of-way as platted, so vacating the right-of-way in favor of a conservation easement that will allow for publicly accessible trails to be constructed in an environmentally sensitive manner is in the public interest. Rights-of-way being vacated are not needed for future utility purposes. The Urban Renewal Agency has identified the location of existing utilities and easements over those utilities will be dedicated as part of the Plat of Sunset Dunes. In the case of SW Anchor Way, a temporary utility easement will be reserved. NW Natural has a 4-inch gas main in place at this location. The temporary easement will expire once SW 35th Street is constructed. The 4-inch gas main can be relocated to the SW 35th Street alignment when that road is built.

c. Potential environmental and geologic impacts. This policy recognizes that certain rights-of-way should be retained to preserve sensitive environmental features such as wetlands or steep slopes that may be prone to landslides or erosion. As noted, the area contained within Lot 1, Block 1, of the Plat of Sunset Dunes contains wetlands and one of the few remaining natural coastal gullies in Newport. Rights-of-way within the lot that are proposed to be vacated extend into the wetlands. The conservation easement that OMSI is dedicating over Lot 1 puts in place safeguards to protect the wetlands, so it is not necessary for the City to retain control over the rights-of-way in order to preserve these environmentally sensitive lands. None of the other rights-of-way that are proposed to be vacated contain City identified or inventoried environmental or geologic features.

d. Financial factors. This policy requires the City consider the cost to the public of initiating vacation proceedings, which would otherwise be borne by an applicant when filing a petition. When an applicant files a petition to vacate a street it is because they will be the primary beneficiary of the action. That is, if the street is vacated it becomes their property. In this case though, the street vacations are being pursued as part of a package that also includes rights-of-way being dedicated by all three property owners. The value of both the vacated right-of-way

and new dedications is being taken into consideration and all parties, including the City, benefit from the new street and property alignments.

e. Effect on property owners. This policy gets at the difficulty an applicant may face in obtaining the consents required in order to file a petition. It is not a compelling factor in this case, although it is relevant to note that the abutting property owners are willing participants in the platting effort.

f. Consistency with applicable plans, ordinances, and regulations. This policy calls for street vacations to be consistent with the City's adopted Transportation System Plan. As noted, that is the case in the subject circumstances.

g. The amount and quality of the information provided by the person requesting vacation. The case record for this street vacation (File No. 1-SV-14) includes a staff report, maps, legal descriptions, public meeting minutes, and other written information that is sufficient to establish the scope and nature of the proposed street vacations.

h. Other factors. City of Newport and OMSI entered into a non-binding Memorandum of Understanding in March of 2013 that called for the City to initiate street vacation proceedings for rights-of-way identified herein in exchange for dedication of right-of-way for SW 30th Street and SW Abalone Street. This ordinance fulfills the objectives outlined in that agreement.

14. The City Council made a determination after considering the recommendation of the Planning Commission, the Planning Staff Report, and the evidence and argument presented at the public hearings and in the record, that the request is in compliance with the applicable criteria and voted to proceed with the street vacation.

15. To ensure that the public interest is not prejudiced, it is appropriate to make the vacation of these rights-of-way contingent upon the recordation of the Plat of Sunset Dunes subdivision in a manner that substantially conforms to the tentative plan approved by the Newport Planning Commission on July 28, 2014 (Exhibit B) and that a conservation easement be recorded over Lot 1, Block 1 of the plat, containing language that conforms to the draft document attached to this ordinance (Exhibit C). Legal descriptions for some of the rights-of-way that are to be vacated tie to streets that will be created with the Plat of Sunset Dunes. This is another reason why the Plat of Sunset Dunes must be recorded before the street vacations can become effective.

THE CITY OF NEWPORT ORDAINS AS FOLLOWS:

Section 1. Findings. The findings set forth above are hereby adopted in support of vacating the rights-of-way identified in Section 2 of this Ordinance.

Section 2. Street portions to be vacated. Legal descriptions for those portions of SW 31st Street, SW 32nd Street, SW 33rd Street, SW Coho Street, SW Brant Street, SW Abalone Street, and SW Anchor Way to be vacated are attached as Exhibit "A" to this ordinance.

Section 3. Dedication of the Plat of Sunset Dunes. The vacation of the rights-of-way identified in Section 2 of this ordinance is contingent upon the Plat of Sunset Dunes being signed and recorded with the Lincoln County Clerk's Office in a manner that substantially conforms to tentative plan approved by the Newport Planning Commission on July 28, 2014 and attached as Exhibit "B" to this ordinance.

Section 4. Dedication of a conservation easement over Lot 1, Block 1, Plat of Sunset Dunes. The vacation of the rights-of-way identified in Section 2 of this ordinance is contingent upon a conservation easement being recorded over Lot 1, Block 1, Plat of Sunset Dunes that conforms to the draft attached as Exhibit "C" to this ordinance.

Section 5. Effective Date of Vacation. The vacation of the rights-of-way identified in Section 2 of this ordinance shall take effect upon satisfaction of all the conditions identified in Sections 3 and 4 of this ordinance. However, under no circumstances shall this ordinance be effective any sooner than 30 days after passage.

Section 6. Recording. The City Recorder is hereby directed to file certified copies of this ordinance for recording with the Lincoln County Clerk's Office, the County Assessor, and the County Surveyor upon satisfaction of all the conditions identified in Sections 3 and 4 of this ordinance.

Date adopted and read by title only: _____

Signed by the Mayor on _____, 2014.

Sandra Roumagoux, Mayor

ATTEST:

Margaret M. Hawker, City Recorder

PLAT OF:
SUNSET DUNES

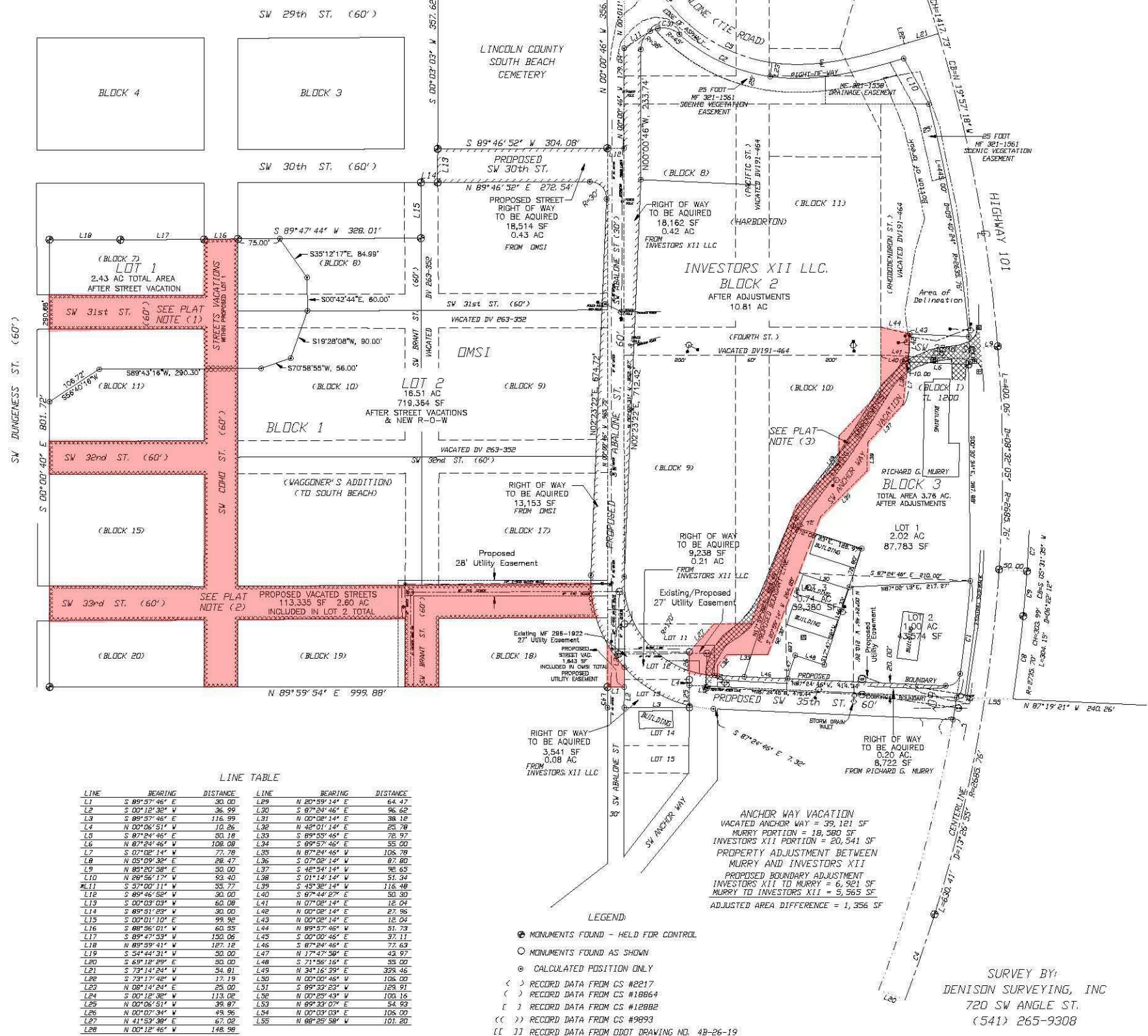
CONCEPT MAP FOR PROPOSED SUBDIVISION
AND PROPOSED SW ABALONE AND SW 35th STREET
CITY OF NEWPORT, LINCOLN COUNTY, OREGON
FOR THE CITY OF NEWPORT

SURVEYOR'S NARRATIVE:

THE PURPOSE OF THIS SURVEY IS TO ESTABLISH THE BOUNDARIES OF TRACTS AS DESCRIBED IN LOT BOOK REPORT NUMBER 79066, DATED AUGUST 12, 2013, BY WESTERN TITLE COMPANY. THIS SURVEY FOUND AND HELD THE MONUMENTS AT THE SOUTHEAST AND NORTHEAST CORNERS OF THE TRACT SURVEYED IN COUNTY SURVEY NO. 18864 BY THIS FIRM, FOR THE BASIS OF BEARING (N 00°00'46" W, 965.75'). THIS RESULTED IN A DIFFERENCE OF BEARING BETWEEN THE RECORD BEARINGS IN THE PLAT OF HARBORTON AND THE LINES AS ESTABLISHED IN THIS SURVEY BY 00°12'46". THE MONUMENTS THAT WERE ESTABLISHED AND FOUND IN SAID SURVEY WERE HELD FOR THE BOUNDARIES OF THE WESTERLY TRACT (DMSI). THE BOUNDARIES OF THE EASTERLY TRACTS WERE DERIVED BY THE FOLLOWING METHODS:

1) THE EASTERLY BOUNDARY (HIGHWAY 101) WAS DERIVED BY HOLDING THE MONUMENTS ALONG THE CENTERLINE OF THE HIGHWAY AT STATIONS PC 253+30.39, POC 247+00.00 AND POC 243+00.00, AS INDICATED ON DDOT DRAWING NO. 48-26-19. 2) THE WESTERLY RIGHT OF WAY BETWEEN SW 32ND AND THE NORTH LINE OF TAX LOT 1300 APPEARS TO BE THE WESTERLY R/W OF TAYS AVE, PER THE PLAT OF HARBORTON. COUNTY SURVEYS 2817 (BURDETT) AND 9816 (FREDRICKSON) BOTH INDICATE THIS SCENARIO. THIS SURVEY HELD THE MONUMENT FOUND AT THE NORTHEAST CORNER OF TL 1200, AS ESTABLISHED IN SAID CS #9816 IN THE DETERMINATION OF SAID TAYS AVE. 3) THE RECORD DATA FROM SAID CS #9816, WAS HELD TO DERIVE THE NORTHERLY R/W OF SW 35th. THE EASTERLY LINE OF LOTS 11-13, BLOCK 9-HARBORTON WERE DERIVED BY HOLDING THE MONUMENTS ESTABLISHED IN CS #9893 (BURRELL). 4) THE R/W'S OF RHODODENDRON DRIVE WERE DERIVED BY HOLDING THE MONUMENT AT THE NORTHEAST CORNER OF TL 1200 AND THE RECORD ANGLES AND DISTANCES FROM THE PLAT OF HARBORTON. AFTER TRYING SEVERAL METHODS TO MATCH THE DATA ON THE PLAT, THIS SURVEY HAD TO CHANGE SOME OF THE DISTANCES ALONG RHODODENDRON TO MATCH THE ALIGNMENT OF SW 35th STREET. 5) THE NORTH END OF BLOCKS 9 AND 10, AS WELL AS THE CORNERS OF BLOCKS 7, 8, 11 AND 12 WERE CALCULATED FROM THE DATA DERIVED FROM THE MONUMENT FOUND AT THE NORTHEAST CORNER OF TL 1200 AND THE RECORD ANGLES FROM THE PLAT OF HARBORTON. THIS SURVEYOR DISCOVERED THAT THE TRANSITION FROM THE EAST AND WEST SIDES OF RHODODENDRON DO NOT COINCIDE. THEREFORE, THE CORNERS OF THE BLOCKS WERE CALCULATED AS DESCRIBED. THIS METHOD LEAVES A DIFFERENCE BETWEEN THE NORTHERLY LINE OF LOTS 11-13 AS ESTABLISHED IN CS #9893 (BURRELL) AND THE METHOD USED AS DESCRIBED ABOVE OF APPROXIMATELY 18 FEET. THIS METHOD FIT THE INTENTIONS OF THE PLAT OF HARBORTON. BUT, IMPROVEMENTS HAVE BEEN BUILT BASED ON THE POSITION OF THE BURRELL MONUMENTS. THEREFORE, THIS SURVEY HELD THE MONUMENTS AS THE SOUTHERLY BOUNDARY OF THE HARBORTON LOTS. 6) THE NORTHERLY BOUNDARY IS THE SOUTHERLY R/W OF ABALONE STREET "TIE ROAD", AS DEFINED IN THE DESCRIPTION OF SAID ROAD IN DDOT DRAWING NO. 88-30-15. THE WESTERLY BOUNDARY AT THE NORTH END IS THE EASTERLY R/W OF SW ABALONE STREET.

- PLAT NOTES
- (1) STREETS VACATION LOCATED IN PROPOSED LOT 1, BLOCK 1 PER CITY ORDINANCE #
- (2) STREETS VACATION LOCATED IN PROPOSED LOT 2, BLOCK 1 PER CITY ORDINANCE #
- (3) SE ANCHOR WAY VACATION PER CITY ORDINANCE #
- (a.) A TEMPORARY PUBLIC EASEMENT OVER EXISTING STREET AND WILL TERMINATE ONCE 35TH STREET IS CONSTRUCTED BETWEEN THE FORMER ANCHOR WAY AND US HWY 101.



SCALE: 1" = 100'
REV #1 OCT 21, 2013
REV #2 NOV. 5, 2013
REV #3 FEB. 14, 2014
REV #4 MARCH 20, 2014
REV #5 APRIL 4, 2014
REV #6 JUNE 6, 2014

* Rights-of-way to be
vacated are shown in red.

SURVEY BY:
DENISON SURVEYING, INC
720 SW ANGLE ST.
(541) 265-9308

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 26, 1989
RUSSELL JOHNSON
2400
RENEWAL DATE:
JUNE 30, 2015

0 100 200 300
SCALE IN FEET

- LEGEND:
- MONUMENTS FOUND - HELD FOR CONTROL
 - MONUMENTS FOUND AS SHOWN
 - CALCULATED POSITION ONLY
 - () RECORD DATA FROM CS #2217
 - () RECORD DATA FROM CS #18864
 - () RECORD DATA FROM CS #12882
 - () RECORD DATA FROM CS #9893
 - () RECORD DATA FROM DDOT DRAWING NO. 48-26-19
 - () RECORD DATA FROM DDOT DRAWING 88-30-15
 - DENOTES PROPOSED STREET ALIGNMENT
 - DENOTES PROPOSED STREET VACATION (DMSI)
 - EXISTING EDGE ASPHALT
 - DENOTES ROAD CENTERLINE
 - WATERLINE
 - SANITARY SEWER LINE
 - POWER POLE/POWER POLE WITH GUY WIRE
 - SANITARY SEWER MANHOLE
 - FIRE HYDRANT
 - CATCH BASIN
 - TRAFFIC SIGNAL / ELEC TRANS
 - STORM DRAIN MANHOLE
- EQUIPMENT USED: WILD T1610 TOTAL STATION.

After Recording Return to:

CONSERVATION EASEMENT

**GRANT OF IRREVOCABLE (PERPETUAL) CONSERVATION EASEMENT
BY THE OREGON MUSEUM OF SCIENCE AND INDUSTRY
TO CITY OF NEWPORT, OREGON**

ARTICLE 1: CONVEYANCE AND PURPOSE OF CONSERVATION EASEMENT

1.1 **The Property.** Oregon Museum of Science and Industry, an Oregon nonprofit public benefit corporation (“OMSI”), is the owner of a parcel of real property in the City of Newport, Lincoln County, Oregon which consists of approximately 18.94 acres of land more particularly described as Block 1, Plat of Sunset Dunes, recorded in Book , Page , Lincoln County Plat Records and by this reference made a part hereof (the “Property”).

1.2 **Memorandum of Understanding.** In the course of developing the Property for an outdoor school and campus (the “Project,” as further defined below), OMSI has entered into a Memorandum of Understanding (“MOU”) dated March 4, 2013, with the City of Newport, a municipal corporation of the State of Oregon, and with the Newport Urban Renewal Agency (together with the City of Newport, herein the “City”), as part of an overall infrastructure plan for the South Beach area as depicted in the Coho/Brant Infrastructure Plan, dated August 2012 (the “Plan”), and OMSI and the City have agreed to work collaboratively to implement the Plan in a coordinated and equitable fashion in order to further neighborhood improvement goals. As parties to the MOU, OMSI and the City, among other things, agreed as follows:

“(a) OMSI and the City will collaborate on a program to preserve, in perpetuity, environmentally sensitive Coastal Gully areas on their respective properties as generally depicted on Exhibit C [of the MOU], through the use of Lincoln County’s Conservation Easement program or similar method. The precise area of the conservation easement will be mutually agreed by OMSI [and the City]. The goal of both Parties is for these areas to be managed in a manner that allows them to be used as part of OMSI’s environmental education curriculum while providing for low impact public access to areas as envisioned in the Plan.

“(b) OMSI and the City recognize that this collaboration may result in their respective land ownership and rights-of-way within the Coastal Gully area being consolidated into a single lot or parcel through the platting process and that it may be necessary to put in place conservation easements over the affected areas.”

1.3 Easement Grant. OMSI does hereby grant to City a permanent, irrevocable, non-exclusive easement (the “Conservation Easement”) of the nature and character described herein over that portion of the Property described as Lot 1, Block 1, Plat of Sunset Dunes, recorded in Book [REDACTED], Page [REDACTED], Lincoln County Plat Records and by this reference made a part hereof (the “Easement Area”). The Conservation Easement shall continue in effect in perpetuity and shall run with the land, subject to the terms and conditions hereof.

1.4 Purpose; Project. The purpose of the Conservation Easement is the preservation, promotion, enhancement, and restoration of the native trees, vegetation, wetland, natural beauty and scenic values of the Easement Area in perpetuity (the “Purpose”). The grant of the Conservation Easement initially is intended to be consistent with the development of OMSI’s outdoor school and campus project on the Property for an environmental education program (the “Project”).

ARTICLE 2: PUBLIC RECREATION AND ACCESS

2.1 Public Recreation. OMSI agrees to refrain from taking any action to post against, prohibit, charge a fee, or otherwise discourage access to and use of the Easement Area by the general public for traditional, daytime, non-intensive outdoor recreation, or to block or otherwise discourage access to the Easement Area by conventional on-road passenger vehicles from and over abutting public roads for access to the Easement Area. Under no circumstances may OMSI allow exclusive use of the Easement Area by any person or entity for such recreational purposes.

2.2 Limitations. OMSI retains the right to make reasonable rules and regulations for permitted recreational uses, and to limit or prohibit any of the following: camping; loud activities; open fires; use of motorized recreational vehicles; and any use that may interfere with or be harmful to members of the public using the Easement Area, the conservation values of the Easement Area, or the proper exercise of OMSI's reserved rights. The City and OMSI may mutually agree in writing to restrict access and use of the Easement Area by the general public for other purposes, but only to the extent and for the duration necessary to assure safety, permit necessary maintenance, or preserve important scenic, ecological, and other conservation values of the Easement Area.

2.3 Grant of Trail Rights to City. City is hereby granted the right to establish and maintain any unpaved rustic footpath within the Easement Area, after prior written notice to OMSI regarding the time and manner of entry and construction. Any such footpath shall be established and maintained at City's expense and, once established, OMSI agrees to refrain from taking any action to post, prohibit, charge a fee, or otherwise discourage access to and use of the trails by the general public for traditional daytime non-intensive outdoor recreation, although public access thereto shall be subject to the limits of Sections 2.1 and 2.2, above.

2.4 Security. The parties acknowledge that use of the Property as an outdoor school and campus will include regular visits by children. Accordingly, OMSI and the City will cooperate in applying the provisions of this Article 2 in a manner that will not result in unreasonable risks to the safety and security of children who visit the Property.

ARTICLE 3: PHOTOGRAPHS OF PROPERTY

Photographs of the Easement Area in its current condition shall be kept by both the OMSI and the City to document its condition as of the execution of this Conservation Easement.

ARTICLE 4: CONDITIONS OF CONSERVATION EASEMENT

4.1 The following covenants shall apply to the Easement Area:

a. No cutting of native trees or removal of natural vegetation, except as allowed by law and as may be agreed for restoration and enhancement activities.

b. No development or construction of any structures, buildings, or other non-natural features except for boardwalks and trails related to the educational use of the Easement Area and other lawful development.

c. No mining such as aggregate, sand, rock, gases, or minerals and no petroleum drilling.

d. No cell, radio or other communication towers.

e. No application of herbicides or pesticides is permitted if alternative methods of control, including removal by hand are available and not cost prohibitive. If alternative applications are not available or are cost prohibitive, hand application or injection of herbicides or pesticides may be used after notice has been posted in prominent locations in the Easement Area for at least ten days prior to application. The notice, at a minimum, shall identify the time and location of the areas of application, and the chemicals being used.

f. No grading, cuts or fills or other alteration of topography is permitted except in the placement or construction of signs, benches, the construction of trails, or as contemplated in 4.2.k, or as allowed by the law and as may be agreed for restoration and enhancement activities.

g. No dumping of garbage, yard debris, and other waste, nor permanent storage of trash anywhere on the Easement Area.

h. No dumping or storage of hazardous materials.

i. No use of motorized vehicles anywhere on the Easement Area except in sign, bench, or trail construction that shall be agreed upon by OMSI and City.

j. No subdivision of the Easement Area for any additional development except as allowed by law.

k. No fencing except as allowed by the law.

l. Nothing in this Agreement precludes structures, uses and activities which are allowed by law.

4.2 OMSI may (shall have the right to) engage in the following activities in the Easement Area:

a. If catastrophic events impact the Easement Area such as a mudslide, blow down, tsunami, earthquake or fire (collectively “Events”) occur, OMSI shall in good faith and in a timely manner use reasonable efforts to restore and stabilize the damaged areas according to best practices that are consistent with and support the purposes of this Conservation Easement and as long as such shall not further compromise the stability of the Easement Area. In restoring the Easement Area, OMSI may remove and sell any salvageable timber resulting from the Event. If the catastrophic event is an earthquake or tsunami and if it devastates the Easement Area and surrounding areas, OMSI shall have no obligation to restore and stabilize the Easement Area.

b. Improve the Property including the Easement Area as allowed by the law.

c. Remove noxious weeds, bushes, and other invasive species.

d. Remove any falling or fallen trees that threaten the safety of OMSI personnel, public trail hikers, residence/structures, or threaten the ingress and egress of the road or trails.

e. Plant or transplant trees, bushes, perennials, annuals and other flora anywhere on the Easement Area.

f. Place signs on the Easement Area that reinforce the Conservation Easement such signage related to trail use, educational information, personal safety and prohibited activities.

g. Sell, rent, mortgage, gift or devise the Property including the Easement Area.

h. Possess all other rights to control and manage the Easement Area normally accorded property owners.

i. OMSI shall have the right to enter into additional easements and legal agreements concerning the Property and the Easement Area without approval of City as long as the additional easements or agreements do not materially violate or conflict with this

Conservation Easement. The City shall be promptly informed in writing as to any additional easements/ agreements.

j. All costs and liabilities to maintain the Property, including the Easement Area shall be the sole responsibility of OMSI.

k. Removal of the man-made earthen fill features on the south, southeast, and eastern borders of the easement. Wetland features will be protected from all earthwork activities.

ARTICLE 5: ENFORCEMENT OF THE CONSERVATION EASEMENT

5.1 This Conservation Easement may be enforced by OMSI or the City or their respective successors in interest.

5.2 Any alleged violation of the Conservation Easement will be brought to the attention of both OMSI and the City. If the violation includes acts contrary to state statutes, additional enforcement may include Newport Police Department, Lincoln County District Attorney's Office, and all other Lincoln County or State of Oregon Authorities.

5.3 Remedial measures for violations by third parties shall be instituted by OMSI at the City's reasonable request.

5.4 OMSI shall inspect the Easement Area at least annually to ensure that the covenants in this Conservation Easement are being adhered to, or sooner if a violation of the Conservation Easement is suspected or reported.

5.5 OMSI shall maintain a written and photographic record of any inspections, reports of violations, and all remedial actions taken to assure the enforcement of the Conservation Easement.

5.6 Specific actions to be taken if a violation is suspected.

a. Notice of Intention to Undertake Certain Action; Clarification of Conservation Easement Terms. The reason for requiring OMSI to notify and obtain approval from the City prior to undertaking certain activities, which might impair the conservation values or otherwise defeat or frustrate the purpose of this Conservation Easement, is to afford the City an opportunity to ensure that the activities in question are designed and carried out in a manner consistent with the covenants, other terms, conditions and/or purpose of the Conservation Easement. Whenever notice is required, or if OMSI has a question as to whether an activity is consistent with the terms of this Conservation Easement or might negatively impact the conservation values of the Easement Area, OMSI shall notify the City in writing not less than fourteen (14) days prior to the date OMSI intends to undertake the activity in question; except that in an emergency forty-eight (48) hour oral notification to the City shall suffice. The notice shall describe the nature, scope, design, location, timetable, and any other material aspects of the proposed activity in sufficient detail to permit the City to

make an informed judgment of the activity as to its consistency with the purpose of this Conservation Easement.

This term is in addition to any other notice or public forum actions required under this Conservation Easement.

b. City's Response. City shall give OMSI a written response of its determination within ten (10) days after the receipt of OMSI's written request. In the event the City fails to respond to OMSI's written request within the ten (10) day period, such request shall be deemed approved. The City's approval shall be based upon the City's reasonable determination (a) that the proposed use or activity would be consistent with the provisions of the Conservation Easement, (b) that the proposed action will preserve and enhance the conservation values protected by this Conservation Easement, and (c) that the likely effect of the proposed action upon the conservation values of the Easement Area will be positive. Approval or disapproval shall be within the reasonable discretion of the City and may be granted upon conditions, provided they tend to further the purpose of this Conservation Easement. The consent of the City obtained in one circumstance shall not be deemed or construed to be a waiver by the City for any subsequent activities by OMSI under this Article.

c. Mediation. If a dispute arises between the Parties concerning the consistency of any proposed use or activity with the purpose or terms of this Conservation Easement that they cannot resolve through unassisted consultation between themselves, and OMSI agrees not to proceed with, or shall discontinue, the use or activity pending resolution of the dispute, either party may refer the dispute to mediation by request made in writing upon the other. Within ten (10) days of the receipt of such a request, the Parties shall mutually select a single experienced and impartial mediator. If the parties are unable to agree on the selection of a single mediator, then the parties shall, within fifteen (15) days of receipt of the initial request, jointly apply to the presiding judge of the Lincoln County Circuit Court for the appointment of an experienced and impartial mediator. Mediation shall then proceed in accordance with the following guidelines:

(1) Purpose. The purpose of the mediation is to: (i) promote discussion between the parties; (ii) assist the parties to develop and exchange pertinent information concerning the issues in dispute; and (iii) assist the parties to develop proposals which enable them to arrive at a mutually acceptable resolution of the controversy. The mediation is not intended to result in any express or de facto modification or amendment of the terms, conditions or restrictions of this Conservation Easement.

(2) Participation. The mediator may meet with the parties and their counsel jointly or ex parte. The Parties agree that they will participate in the mediation process in good faith and expeditiously, attending all sessions scheduled by the mediator. Representatives of both parties with settlement authority will attend mediation sessions as requested by the mediator. The Parties may invite additional persons, such as residents in and around the subject property, to participate in the mediation.

(3) Confidentiality. All information presented to the mediator shall be deemed confidential and shall be disclosed by the mediator to third parties only with the consent of the parties or their respective counsel. The mediator shall not be subject to subpoena by any party. No statements made or documents prepared for mediation sessions shall be disclosed in any subsequent proceeding or construed as an admission of a party.

(4) Time Period. Neither party shall be obligated to continue if the mediation process exceeds a period of forty five (45) days from the date of receipt of the initial request or if the mediator concludes that there is no reasonable likelihood that continuing mediation will result in a mutually agreeable resolution of the dispute.

(5) Costs. The costs of the mediator shall be borne equally by OMSI and the City; the parties shall bear their own expenses, including attorney's fees, individually.

d. City's Remedies. It is the City's preference and intent to work on a voluntary basis with the OMSI to solve any problems that arise through unassisted and assisted discussions. However, despite good efforts there may be situations that require corrective action to be taken and the following procedures shall be followed and the following time frames provided to allow correction of problems before further action.

(1) Notice of Violation; Corrective Action. If the City determines that OMSI or any occupant of the Property is conducting or allowing a use, activity, or condition on the Easement Area which is prohibited by the terms of this Conservation Easement or that a violation of the terms of this Conservation Easement is threatened, City shall give written notice to OMSI of such violation or threatened violation and demand corrective action sufficient to cure the violation or terminate the threat, and, where the violation involves injury to the Easement Area resulting from any use or activity inconsistent with the purposes of this Conservation Easement, to restore the portion of the Easement Area so injured.

(2) Injunctive Relief. If OMSI fails to cure the violation within thirty (30) days after receipt of notice thereof from the City, or under circumstances where the violation cannot reasonably be cured within this period, fails to begin curing such violation within this period, and/or fails to continue diligently to cure such violation until finally cured. The City may enter upon the Easement Area and cure the violation, or bring an action at law or in equity in court of competent jurisdiction to enforce the terms of this Conservation Easement to enjoin the violation, ex parte as necessary, by temporary or permanent injunction, and to require the restoration of the Easement Area to the condition that existed prior to injury.

(3) Damages. The City will be entitled to recover compensatory, but not punitive or consequential, damages for OMSI's violation of the terms of this Conservation Easement, or injury to any conservation values protected by this Conservation Easement. Without limiting OMSI's liability therefore, the City shall apply any damages recovered to the cost of undertaking any corrective action on the Easement Area.

(4) Emergency Enforcement. If the City, in its reasonable discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the conservation values of the Easement Area, the City may (i) pursue its remedies under 4.6(b) without prior notice to OMSI or without waiting for the period provided for cure to expire; and (ii) enter upon the Easement Area for the purpose of assessing damage or threat to the conservation values thereon and determining the nature of curative or mitigation actions that should be taken. Notwithstanding the foregoing, the City shall use its best efforts to give forty eight (48) hours' notice to OMSI of such actions taken under this sub-paragraph.

(5) Scope of Relief. The City's rights under this paragraph apply equally in the event of either actual or threatened violations of the covenants, other terms, conditions and purpose of this Conservation Easement. OMSI and City expressly agree that the Easement Area, by virtue of its protected features, is unique and that a violation of this Conservation Easement, and any ensuing harm or alteration of the Easement Area, will result in damages that are irremediable and not subject to quantification. Accordingly, OMSI agrees that City's remedies at law for any violation of the terms of this Conservation Easement are inadequate and that City shall be entitled to the injunctive relief described in this paragraph, both prohibitive and mandatory, in addition to such other relief to which the City may be entitled, including specific performance of the terms of this Conservation Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. The City's remedies described in this section shall be cumulative and shall be in addition to all remedies now or hereinafter existing at law or in equity.

(6) Liquidated Damages. Inasmuch as the actual damages to the conservation values of the Easement Area which could result from a breach of this Conservation Easement by OMSI would be impractical or extremely difficult to measure, the Parties agree that the money damages City is entitled to recover under ORS 105.810 shall be the following:

(i) With respect of the construction of any improvement prohibited by the Conservation Easement, that is not subsequently removed and the Easement Area restored to its previous condition within a reasonable amount of time specified by the City, the damages shall be an amount equal to the actual cost of removal of such improvement;

(ii) With respect to any use or activity prohibited by this Conservation Easement and not involving the construction or maintenance of an improvement, an amount equal to \$10,000 in 2014 Dollars; provided, however, that if timber is harvested in violation of the terms of this Conservation Easement, the amount determined under this subparagraph (ii) will be equal to the actual sales price or value realized upon disposition of such harvested timber; and

(iii) any other damages allowable under ORS 105.810 specifically including, without limitation, restoration of lost or damaged conservation values. Provided, however that in no circumstances shall the City be entitled to treble damages.

e. Costs of Enforcement. In any suit or action brought by the City to enforce or interpret the provisions of this Conservation Easement, the prevailing party shall be entitled to a judgment against the non-prevailing party for the prevailing party's costs and reasonable attorney's fees, including the costs of attorney's fees on appeal and in enforcing any judgment or decree, including in a bankruptcy proceeding.

f. City's Discretion. Enforcement of the terms of this Conservation Easement shall be at the reasonable discretion of the City, and any forbearance by the City to exercise its rights under this Conservation Easement in the event of any breach of any covenant or term of this Conservation Easement by OMSI shall not be deemed or construed to be a waiver by the City of such covenant or term or of any subsequent breach of the same or any other term of this Conservation Easement or of any of the City's rights under this Conservation Easement. No delay or omission by the City in the exercise of any right or remedy upon any breach by OMSI shall impair such right or remedy or be construed as a waiver.

g. Waiver of Certain Defenses. OMSI hereby waives the defenses of laches, and prescription. Laches constitutes the neglect or omission to assert a right as, taken in conjunction with lapse of time and other circumstances, causes prejudice to the adverse party. Prescription is defined as a manner of acquiring rights in a property of another by the passage of time and usage.

h. Acts Beyond the OMSI's Control. Nothing contained in this Conservation Easement shall be construed to entitle the City to bring any action against OMSI for any injury to or change in the Easement Area resulting from causes beyond OMSI's control, including without limitation, other government's action, fire, flood, storm, tsunami, earthquake and other naturally occurring earth movement and other similar natural events, or from any prudent action taken by OMSI under emergency conditions to prevent, abate, or mitigate significant injury to the Easement Area resulting from such causes.

Additionally, damage caused by trespassers shall not be subject to action against OMSI.

ARTICLE 6: LIABILITIES, TAXES, AND INDEMNIFICATION

6.1 Legal Requirements. OMSI shall conduct its activities and uses in accordance with all applicable federal, state and local laws, regulations and requirements.

6.2 Taxes

. For so long as the Easement Area is entitled to exemption from ad valorem property tax under Oregon law, the remainder of this Section 6.2 shall not be applicable. Subject to the foregoing and except as agreed by the parties in providing for the grant of this Conservation Agreement through the Lincoln Land Legacy program, OMSI shall pay or cause to be paid before delinquency all taxes, assessments, fees, and charges of whatever description levied on or assessed against the Easement Area by competent authority (collectively "taxes"), including any such taxes imposed upon, or incurred as a result of, this Conservation Easement, and shall furnish the City with satisfactory evidence of payment upon request. The

City is authorized, but in no event obligated, to make or advance any payment of taxes, upon fifteen (15) days prior written notice to OMSI in accordance with any bill, statement or estimate procured from the appropriate authority, without inquiry into the validity of the taxes or the accuracy of the bill, statement or estimate, and the obligation, caused by such payment shall bear interest until paid by OMSI the lesser of nine percent (9%) per annum or at the maximum rate allowed by law. It is intended that this Conservation Easement constitutes an enforceable restriction within the meaning of ORS 271.715 through 271.795.

6.3 Hold Harmless.

a. In accordance with Oregon law including but not limited to the Oregon Tort Claims Act (ORS 30.260 to 30.300), OMSI shall hold harmless, indemnify, and defend the City and its officers, employees, agents, attorneys, and contractors and the successors and assigns of each of them (collectively the “City’s Indemnified Parties”) from and against all liabilities, penalties, losses, expenses, claims, damages, demands, causes of action, judgments or costs, including, without limitation, reasonable attorney’s fees, arising from or in any way connected with or incident to injury to or the death of any person, or physical damage to any property, resulting from any of OMSI’s negligent, reckless or intentionally wrongful acts, omissions, conditions, or other matter related to or occurring on or about the Easement Area.

b. In accordance with Oregon law, including but not limited to the Oregon Tort Claims Act (ORS 30.260 to 30.300), the City shall hold harmless, indemnify, and defend OMSI and its officers, executives, employees, agents, attorneys, and contractors and the heirs, personal representatives, successors and assigns of each of them (collectively “OMSI’s Indemnified Parties”) from and against all liabilities, penalties, losses, expenses, claims, damages, demands, causes of action, judgments or costs, including, without limitation, reasonable attorney’s fees, arising from or in any way connected with or incident to injury to or the death of any person, or physical damage to any property, resulting from any negligent, reckless or intentionally wrongful acts, omissions, or conditions related to or occurring on or about the Easement Area by the City, its officers, officials, employees, agents, attorneys, contractors, heirs, successors and assigns.

ARTICLE 7: EXTINGUISHMENT, CONDEMNATION, INABILITY TO PERFORM AND SUBSEQUENT TRANSFER

7.1. Extinguishment. If circumstances arise in the future that render the Purpose of this Conservation Easement impossible to accomplish (such circumstances to include global climate change, urbanization, unstable soils, etc.), then this Conservation Easement can be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court having jurisdiction. The amount of the proceeds to which OMSI or the City shall be entitled, after the satisfaction of prior claims, from any sale, exchange, or involuntary conversion of all or any portion of the Easement Area subsequent to such termination or extinguishment, shall be determined, unless otherwise provided by Oregon law at the time, in accordance with Section 7.2 of this Conservation Easement.

7.2 Condemnation. If all or any of the Easement Area is taken by exercise of the power of eminent domain or acquired by purchase in lieu of condemnation, whether by public, corporate, or other authority, so as to terminate this Conservation Easement, in whole or in part, OMSI and the City shall act jointly to recover the full value of the interest in the Easement Area subject to the taking or in lieu purchase and all direct or incidental damages resulting from the taking or in lieu purchase. All expenses reasonably incurred by OMSI and the City in connection with the taking or in lieu purchase shall be paid out of the amount recovered. Except as provided by applicable law, the entire balance of the amount recovered shall be paid to OMSI, and the City agree that the City's share of the balance of the amount recovered shall be zero.

7.3 The City's Inability To Fulfill Its Obligations. If the City for any reason cannot fulfill its obligations under this Conservation Easement, then after notice to OMSI and notice to the public given thirty (30) days before the effective date of any action, the City shall assign it rights and obligations to another public entity, including but not limited to the State of Oregon, that is willing and able to receive the benefits and assume the obligations of the Conservation Easement; provided, however, that that the assignee public entity's obligations shall be subject to the limitations of the Oregon Constitution, local charters, state and local laws, and the Oregon Tort Claims Act (ORS 30.260 to 30.300).

Such other entity, with purposes similar to Grantee's, constituting a "qualified organization" within the meaning of the Internal Revenue Code of 1986, as amended (or any successor provision(s) then applicable).

7.4 Application of Proceeds. The City shall use any proceeds received under the circumstances described in this Article 7 for the purposes of this Conservation Easement grant.

7.5 Subsequent Transfers. OMSI agrees to:

a. Incorporate the terms of this Conservation Easement by reference in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Easement Area, including, without limitation, a leasehold interest;

b. Describe this Conservation Easement in and append it to any executory contract for the transfer of any interest in the Easement Area;

c. Give written notice to the City of the transfer of any interest in all or a portion of the Easement Area no later than thirty (30) days prior to the date of such transfer. Such notice to Grantee shall include the name, address, email and telephone number of the prospective transferee or the prospective transferee's representative.

The failure of OMSI to perform any act required by this subsection shall not impair the validity of this Conservation Easement or limit its enforceability in any way.

ARTICLE 8: AMENDMENT

If circumstances arise under which an amendment to or modification of this Conservation Easement would be appropriate, OMSI and the City are free to jointly amend this Conservation Easement; provided that no amendment shall be allowed that will affect the qualification of this Conservation Easement or the status of the City under any applicable laws, including Section 170(h) of the Internal Revenue Code of 1986, as amended (or any successor provision(s) then applicable). Any proposed change that affects the provisions and integrity of this Conservation Easement shall be directed to OMSI and the City for their review and input, and shall require their written agreement to such changes if such changes alter any conditions set forth in the Conservation Easement. Changes shall not materially alter the conservation purposes of this Conservation Easement. Any such amendment shall be consistent with the Purpose of this Conservation Easement, shall not affect its perpetual duration, and shall be recorded in the official records of Lincoln County, Oregon, and any other jurisdiction in which such recording is required.

ARTICLE 9. ASSIGNMENT

This Conservation Easement is transferable, but the City may assign its rights and obligations under this Conservation Easement only to an organization that is a governmental entity or that is a qualified organization at the time of transfer under Section 170(h) of the Internal Revenue Code of 1986, as amended (or any successor provision then applicable), and the applicable regulations promulgated thereunder, and authorized to acquire and hold conservation easements under applicable Oregon law (or any successor provision(s) then applicable), provided that if such vesting in any of the entities named above is deemed to be void under the Rule Against Perpetuities, the rights and obligations under this Conservation Easement shall vest in such organization as a court having jurisdiction shall direct, pursuant to the applicable Oregon law and the Internal Revenue Code and with regard to the Purpose of this Conservation Easement. As a condition of such transfer, the City shall require that the transferee exercise its rights under the assignment consistent with the Purpose of this Conservation Easement. The City shall notify OMSI in writing, at OMSI's last known address, in advance of such assignment. The failure of the City to give such notice shall not affect the validity of such assignment nor shall it impair the validity of this Conservation Easement or limit its enforceability in any way.

ARTICLE 10. RECORDATION

The City shall record this instrument in a timely fashion in the official records of Lincoln County, Oregon, and in any other appropriate jurisdictions, and may re-record it at any time as may be required to preserve its rights in this Conservation Easement.

ARTICLE 11. GENERAL PROVISIONS

11.1 Controlling Law. The interpretation and performance of this Conservation Easement shall be governed by the laws of the State of Oregon.

11.2 Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Conservation Easement shall be liberally construed in favor of the grant to affect the Purpose of this Conservation Easement. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the Purpose of this Conservation Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

11.3 Severability. If any provision of this Conservation Easement, or its application to any person or circumstance, is found to be invalid, the remainder of the provisions of this Conservation Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected.

11.4 Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to the Easement Area and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Easement Area, including the MOU, all of which are merged into this Conservation Easement. No alteration or variation of this instrument shall be valid or binding unless contained in an amendment that complies with Article 7 hereof.

11.5 No Forfeiture. Nothing contained in this Conservation Easement will result in a forfeiture or reversion of OMSI's title in any respect.

11.6 Successors and Assigns. The covenants, terms, conditions, and restrictions of this Conservation Easement shall be binding upon, and inure to the benefit of, the parties to this Conservation Easement and their respective personal representatives, heirs, successors, and assigns, and shall continue as a servitude running in perpetuity with the Easement Area.

11.7 Termination of Rights and Obligations. A party's rights and obligations under this Conservation Easement terminate upon transfer of the party's interest in the Easement or Protected Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

11.8 Counterparts. The parties may execute this instrument in two or more counterparts, which shall be signed by both parties. Each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

ARTICLE 12. SCHEDULE OF EXHIBITS

A. Drawing of Easement Area

TO HAVE AND TO HOLD unto Grantee, its successors and assigns forever.

IN WITNESS WHEREOF, the undersigned Grantor (OMSI) and Grantee (City of Newport) have executed this instrument this ____ day of _____, 2014.

Grantor:
OREGON MUSEUM OF SCIENCE AND INDUSTRY,
an Oregon nonprofit corporation

Signature

Name (print or type)

Title

[Acknowledgment follows]

STATE OF OREGON)
) ss.
County of _____)

On the ____ day of _____, 2014, _____, as _____ of Oregon Museum of Science and Industry, an Oregon nonprofit corporation appeared before me and declared the foregoing instrument to be his voluntary act and deed.

NOTARY PUBLIC FOR OREGON

Grantee:
City of Newport, a municipal corporation

Signature

Name (print or type)

Title

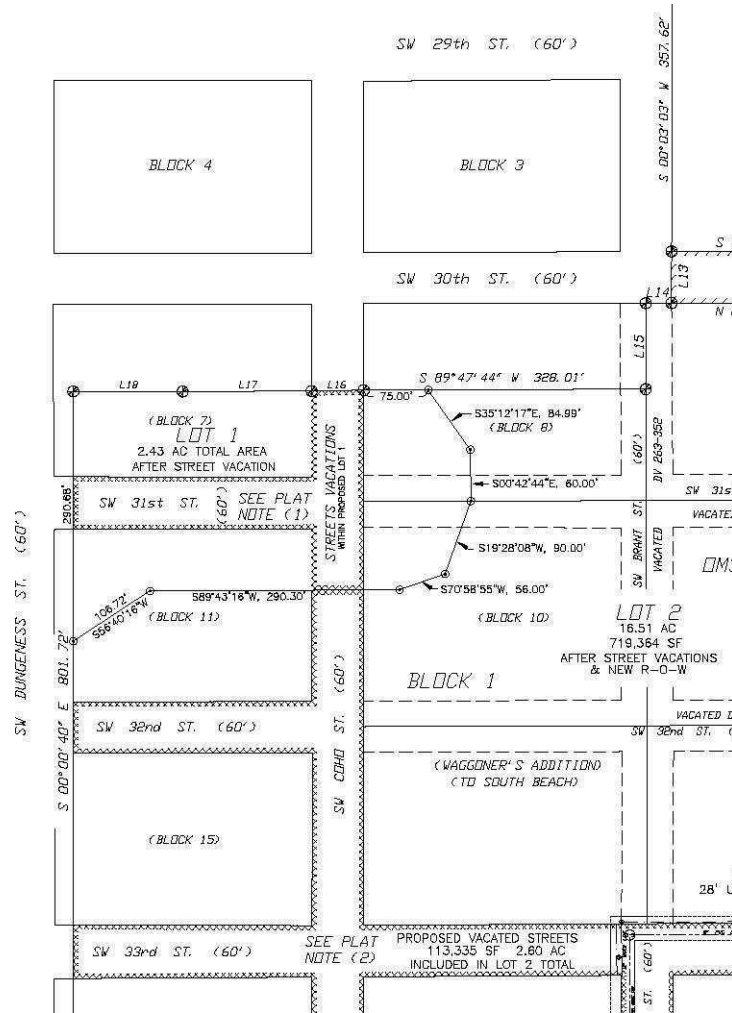
STATE OF OREGON)
) ss.
County of _____)

On the ____ day of _____, 2014, _____, as _____ of
City of Newport, an Oregon municipal corporation appeared before me and declared the
foregoing instrument to be its voluntary act and deed.

NOTARY PUBLIC FOR OREGON

EXHIBIT A

Drawing of Easement Area Lot 1, Block 1, Plat of Sunset Dunes



LINE TABLE

LINE	BEARING	DISTANCE	LINE	BEARING	DISTANCE
L1	S 89°57'46" E	30.00	L29	N 20°59'14" E	64.47
L2	S 00°12'36" W	36.59	L30	S 07°24'46" E	96.62
L3	S 89°57'46" E	116.99	L31	N 00°02'14" E	38.12
L4	N 00°06'51" W	10.26	L32	N 42°01'14" E	25.78
L5	S 07°24'46" E	90.18	L33	S 89°57'46" E	76.97
L6	N 87°24'46" W	108.08	L34	S 89°57'46" E	55.00
L7	S 07°02'14" W	77.78	L35	N 87°24'46" W	108.78
L8	N 05°09'32" E	28.47	L36	S 07°02'14" W	87.80
L9	N 89°51'29" W	30.00	L37	S 42°54'14" W	98.65
L10	N 20°56'17" W	92.40	L38	S 01°14'14" W	51.94
L11	S 37°00'11" W	55.77	L39	S 43°32'14" W	116.48
L12	S 89°46'52" W	30.00	L40	S 07°44'27" E	50.30
L13	S 00°03'03" W	60.08	L41	N 07°02'14" E	12.04
L14	S 89°51'29" W	30.00	L42	N 00°02'14" E	27.96
L15	S 00°01'10" E	99.92	L43	N 00°02'14" E	18.04
L16	S 88°96'01" W	60.35	L44	N 89°57'46" W	51.73
L17	S 89°47'53" W	150.06	L45	S 00°00'46" E	37.11
L18	N 89°59'41" W	127.12	L46	S 07°24'46" E	77.63
L19	S 34°44'31" W	50.00	L47	N 17°47'58" E	43.97
L20	S 69°12'28" E	30.00	L48	S 71°56'18" E	35.00
L21	S 79°14'24" W	54.81	L49	N 34°16'39" E	339.46
L22	S 73°17'42" W	17.19	L50	N 00°00'46" W	106.00
L23	N 08°14'24" E	25.00	L51	S 89°32'23" W	129.91
L24	S 00°12'36" W	113.02	L52	N 00°29'49" W	104.16
L25	N 00°06'51" W	39.87	L53	N 89°23'07" E	54.93
L26	N 00°07'34" W	49.96	L54	N 00°03'03" E	106.00
L27	N 41°53'38" E	67.02	L55	N 88°25'58" W	101.20
L28	N 00°12'46" W	148.98			

VACATION

271.080 Vacation in incorporated cities; petition; consent of property owners. (1) Whenever any person interested in any real property in an incorporated city in this state desires to vacate all or part of any street, avenue, boulevard, alley, plat, public square or other public place, such person may file a petition therefor setting forth a description of the ground proposed to be vacated, the purpose for which the ground is proposed to be used and the reason for such vacation.

(2) There shall be appended to such petition, as a part thereof and as a basis for granting the same, the consent of the owners of all abutting property and of not less than two-thirds in area of the real property affected thereby. The real property affected thereby shall be deemed to be the land lying on either side of the street or portion thereof proposed to be vacated and extending laterally to the next street that serves as a parallel street, but in any case not to exceed 200 feet, and the land for a like lateral distance on either side of the street for 400 feet along its course beyond each terminus of the part proposed to be vacated. Where a street is proposed to be vacated to its termini, the land embraced in an extension of the street for a distance of 400 feet beyond each terminus shall also be counted. In the vacation of any plat or part thereof the consent of the owner or owners of two-thirds in area of the property embraced within such plat or part thereof proposed to be vacated shall be sufficient, except where such vacation embraces street area, when, as to such street area the above requirements shall also apply. The consent of the owners of the required amount of property shall be in writing.

[Amended by 1999 c.866 §2]

271.090 Filing of petition; notice. The petition shall be presented to the city recorder or other recording officer of the city. If found by the recorder to be sufficient, the recorder shall file it and inform at least one of the petitioners when the petition will come before the city governing body. A failure to give such information shall not be in any respect a lack of jurisdiction for the governing body to proceed on the petition.

271.100 Action by city governing body. The city governing body may deny the petition after notice to the petitioners of such proposed action, but if there appears to be no reason why the petition should not be allowed in whole or in part, the governing body shall fix a time for a formal hearing upon the petition.

271.110 Notice of hearing. (1) The city recorder or other recording officer of the city shall give notice of the petition and hearing by publishing a notice in the city official newspaper once each week for two consecutive weeks prior to the hearing. If no newspaper is published in such city, written notice of the petition and hearing shall be posted in three of the most public places in the city. The notices shall describe the ground covered by the petition, give the date it was filed, the name of at least one of the petitioners and the date when the petition, and any objection or remonstrance, which may be made in writing and filed with the recording officer of the city prior to the time of hearing, will be heard and considered.

(2) Within five days after the first day of publication of the notice, the city recording officer shall cause to be posted at or near each end of the proposed vacation a copy of the notice, which shall be headed, "Notice of Street Vacation," "Notice of Plat Vacation" or "Notice of Plat and Street Vacation," as the case may be. The notice shall be posted in at least two conspicuous places in the proposed vacation area. The posting and first day of publication of such notice shall be at least 14 days before the hearing.

(3) The city recording officer shall, before publishing such notice, obtain from the petitioners a sum sufficient to cover the cost of publication, posting and other anticipated expenses. The city recording officer shall hold the sum so obtained until the actual cost has been ascertained, when the

amount of the cost shall be paid into the city treasury and any surplus refunded to the depositor.
[Amended by 1991 c.629 §1; 2005 c.22 §196]

271.120 Hearing; determination. At the time fixed by the governing body for hearing the petition and any objections filed thereto or at any postponement or continuance of such matter, the governing body shall hear the petition and objections and shall determine whether the consent of the owners of the requisite area has been obtained, whether notice has been duly given and whether the public interest will be prejudiced by the vacation of such plat or street or parts thereof. If such matters are determined in favor of the petition the governing body shall by ordinance make such determination a matter of record and vacate such plat or street; otherwise it shall deny the petition. The governing body may, upon hearing, grant the petition in part and deny it in part, and make such reservations, or either, as appear to be for the public interest.

271.130 Vacation on city governing body's own motion; appeal. (1) The city governing body may initiate vacation proceedings authorized by ORS 271.080 and make such vacation without a petition or consent of property owners. Notice shall be given as provided by ORS 271.110, but such vacation shall not be made before the date set for hearing, nor if the owners of a majority of the area affected, computed on the basis provided in ORS 271.080, object in writing thereto, nor shall any street area be vacated without the consent of the owners of the abutting property if the vacation will substantially affect the market value of such property, unless the city governing body provides for paying damages. Provision for paying such damages may be made by a local assessment, or in such other manner as the city charter may provide.

(2) Two or more streets, alleys, avenues and boulevards, or parts thereof, may be joined in one proceeding, provided they intersect or are adjacent and parallel to each other.

(3) No ordinance for the vacation of all or part of a plat shall be passed by the governing body until the city recording officer has filed in the office of the city recording officer or indorsed on the petition for such vacation a certificate showing that all city liens and all taxes have been paid on the lands covered by the plat or portion thereof to be vacated.

(4) Any property owner affected by the order of vacation or the order awarding damages or benefits in such vacation proceedings may appeal to the circuit court of the county where such city is situated in the manner provided by the city charter. If the charter does not provide for such appeal, the appeal shall be taken within the time and in substantially the manner provided for taking an appeal from justice court in civil cases. [Amended by 1995 c.658 §101]

271.140 Title to vacated areas. The title to the street or other public area vacated shall attach to the lands bordering on such area in equal portions; except that where the area has been originally dedicated by different persons and the fee title to such area has not been otherwise disposed of, original boundary lines shall be adhered to and the street area which lies on each side of such boundary line shall attach to the abutting property on such side. If a public square is vacated the title thereto shall vest in the city. [Amended by 1981 c.153 §58]

271.150 Vacation records to be filed; costs. A certified copy of the ordinance vacating any street or plat area and any map, plat or other record in regard thereto which may be required or provided for by law, shall be filed for record with the county clerk. The petitioner for such vacation shall bear the recording cost and the cost of preparing and filing the certified copy of the ordinance and map. A certified copy of any such ordinance shall be filed with the county assessor and county surveyor.

271.160 Vacations for purposes of rededication. No street shall be vacated upon the petition of any person when it is proposed to replat or rededicate all or part of any street in lieu of the original

unless such petition is accompanied by a plat showing the proposed manner of replatting or rededicating. If the proposed manner of replatting or rededicating or any modification thereof which may subsequently be made meets with the approval of the city governing body, it shall require a suitable guarantee to be given for the carrying out of such replatting or rededication or may make any vacation conditional or to take effect only upon the consummation of such replatting or rededication.

271.170 Nature and operation of statutes. The provisions of ORS 271.080 to 271.160 are alternative to the provisions of the charter of any incorporated city and nothing contained in those statutes shall in anywise affect or impair the charter or other provisions of such cities for the preservation of public access to and from transportation terminals and navigable waters.

271.180 Vacations in municipalities included in port districts; petition; power of common council; vacating street along railroad easement. To the end that adequate facilities for terminal trackage, structures and the instrumentalities of commerce and transportation may be provided in cities and towns located within or forming a part of any port district organized as a municipal corporation in this state, the governing body of such cities and towns, upon the petition of any such port, or corporation empowered to own or operate a railroad, steamship or other transportation terminal, or railroad company entering or operating within such city or town, or owner of property abutting any such terminal, may:

(1) Authorize any port commission, dock commission, common carrier, railroad company or terminal company to occupy, by any structure, trackage or machinery facilitating or necessary to travel, transportation or distribution, any street or public property, or parts thereof, within such city or town, upon such reasonable terms and conditions as the city or town may impose.

(2) Vacate the whole or any part of any street, alley, common or public place, with such restrictions and upon such conditions as the city governing body may deem reasonable and for the public good.

(3) If any railroad company owns or has an exclusive easement upon a definite strip within or along any public street, alley, common or public place, and if the city governing body determines such action to be to the advantage of the public, vacate the street area between the strip so occupied by the railroad company and one property line opposite thereto, condition that the railroad company dedicates for street purposes such portion of such exclusive strip occupied by it as the city governing body may determine upon, and moves its tracks and facilities therefrom onto the street area so vacated. The right and title of the railroad company in the vacated area shall be of the same character as previously owned by it in the exclusive strip which it is required by the city governing body to surrender and dedicate to street purposes.

271.190 Consent of owners of adjoining property; other required approval. No vacation of all or part of a street, alley, common or public place shall take place under ORS 271.180 unless the consent of the persons owning the property immediately adjoining that part of the street or alley to be vacated is obtained thereto in writing and filed with the auditor or clerk of the city or town. No vacation shall be made of any street, alley, public place or part thereof, if within 5,000 feet of the harbor or pierhead line of the port, unless the port commission, or other bodies having jurisdiction over docks and wharves in the port district involved, approves the proposed vacation in writing.

271.200 Petition; notice. (1) Before any street, alley, common or public place or any part thereof is vacated, or other right granted by any city governing body under ORS 271.180 to 271.210 the applicant must petition the governing body of the city or town involved, setting forth the particular circumstances of the case, giving a definite description of the property sought to be vacated, or of the right, use or occupancy sought to be obtained, and the names of the persons to be particularly affected

thereby. The petition shall be filed with the auditor or clerk of the city or town involved 30 days previous to the taking of any action thereon by the city governing body.

(2) Notice of the pendency of the petition, containing a description of the area sought to be vacated or right, use or occupancy sought to be obtained, shall be published at least once each week for three successive weeks prior to expiration of such 30-day period in a newspaper of general circulation in the county wherein the city or town is located.

271.210 Hearing; grant of petition. Hearing upon the petition shall be had by the city governing body at its next regular meeting following the expiration of 30 days from the filing of the petition. At that time objections to the granting of the whole or any part of the petition shall be duly heard and considered by the governing body, which shall thereupon, or at any later time to which the hearing is postponed or adjourned, pass by a majority vote an ordinance setting forth the property to be vacated, or other rights, occupancy or use to be thereby granted. Upon the expiration of 30 days from the passage of the ordinance and the approval thereof by the mayor of the city or town, the ordinance shall be in full force and effect.

271.220 Filing of objections; waiver. All objections to the petition shall be filed with the clerk or auditor of the city or town within 30 days from the filing of the petition, and if not so filed shall be conclusively presumed to have been waived. The regularity, validity and correctness of the proceedings of the city governing body pursuant to ORS 271.180 to 271.210, shall be conclusive in all things on all parties, and cannot in any manner be contested in any proceeding whatsoever by any person not filing written objections within the time provided in this section.

271.230 Records of vacations; fees. (1) If any town or plat of any city or town is vacated by a county court or municipal authority of any city or town, the vacation order or ordinance shall be recorded in the deed records of the county. Whenever a vacation order or ordinance is so recorded, the county surveyor of such county shall, upon a copy of the plat that is certified by the county clerk, trace or shade with permanent ink in such manner as to denote that portion so vacated, and shall make the notation "Vacated" upon such copy of the plat, giving the book and page of the deed record in which the order or ordinance is recorded. Corrections or changes shall not be allowed on the original plat once it is recorded with the county clerk.

(2) For recording in the county deed records, the county clerk shall collect the same fee as for recording a deed. For the services of the county surveyor for marking the record upon the copy of the plat, the county clerk shall collect a fee as set by ordinance of the county governing body to be paid by the county clerk to the county surveyor. [Amended by 1971 c.621 §31; 1975 c.607 §31; 1977 c.488 §2; 1979 c.833 §30; 1999 c.710 §12; 2001 c.173 §5]

Minutes
City of Newport Planning Commission
Regular Session
Newport City Hall Council Chambers
Monday, July 14, 2014

Commissioners Present: Jim Patrick, Rod Croteau, Lee Hardy, Bob Berman, and Gary East.

Commissioners Absent: Mike Franklin and Bill Branigan (*both excused*).

City Staff Present: Community Development Director Derrick Tokos and Executive Assistant Wanda Haney.

A. Roll Call. Chair Patrick called the meeting to order in the Council Chambers of Newport City Hall at 7:00 p.m. On roll call, Hardy, Berman, Croteau, Patrick, and East were present. Franklin and Branigan were absent, but excused.

B. Approval of Minutes.

1. Approval of the Planning Commission work session and regular session meeting minutes of June 23, 2014. Berman had a minor correction to the work session minutes.

MOTION was made by Commissioner Croteau, seconded by Commissioner Hardy, to approve the Planning Commission minutes as corrected. The motion carried unanimously in a voice vote.

C. Citizen/Public Comment. No comments on non-agenda items.

D. Consent Calendar. Nothing on the consent calendar

E. Action Items.

1. Approval of a letter from the Newport Planning Commission to the Newport City Council regarding Commission support of the Memorandum of Understanding (MOU) between the City of Newport, the City of Lincoln City, Lincoln County, and the Lincoln Community Land Trust forming a partnership to further the workforce housing initiative.

Tokos noted that he had corrected a minor typographical error in the copy that Patrick will sign.

MOTION was made by Commissioner Berman, seconded by Commissioner Croteau, to forward the letter from the Planning Commission to the City Council. Croteau noted that he felt the letter was well constructed and really reflects the Planning Commission's position on this issue. The motion carried unanimously in a voice vote.

F. Public Hearings.

1. **File No. 1-SV-14:** A proposed street vacation initiated by the Newport City Council to vacate portions of SW 31st Street, SW 32nd Street, SW 33rd Street, SW Coho Street, SW Brant Street, SW Abalone Street, and SW Anchor Way as road rights-of-way that are not needed for public purposes. These street vacations are being undertaken in concert with a subdivision plat that will reconfigure SW 30th Street, SW 35th Street and SW Abalone Street for future street improvements. The Planning Commission will review this matter and make a recommendation to the Newport City Council.

Patrick opened the hearing for File No. 1-SV-14 at 7:05 p.m. by reading the summary from the agenda. He read the statement of rights and relevance applying to all hearings on tonight's agenda. He asked the Commissioners for declarations of ex parte contact, bias, conflicts of interest, or site visits. Croteau and Berman both declared site visits. Patrick called for objections to any of the Commissioners or the Commission as a whole hearing this matter; and none were heard. He called for the staff report. Tokos noted for the record that there was some additional material that came in that was not included in the meeting packets. These are consents to the subdivision and street vacation from the three abutting landowners; OMSI, Investors XII, and Richard Murry. The Commissioners had copies in front of them. Tokos further explained that there is a letter from Investors XII, which effectively states that they support the subdivision and vacation specific to what is presented here and not a variation, but reserve the right to appeal in the event that it doesn't remain consistent with this. He explained that there are the signed consents from Richard Murry, Investors XII signed by Reginald Breeze, OMSI signed by Nancy Stueber, and the letter from Investors XII's representative Neathamer Surveying. Tokos noted that in the concept map for the Sunset Dunes Plat, the OMSI property is reflected as all of Block 1, all of Block 2 is Investors XII, and Richard Murry's property is reflected as Block 3. He explained that this is one of two actions tonight that are related. However, with the street vacation, the Planning Commission is making a recommendation to the City Council. They have to vacate streets by ordinance. For the subdivision plat, the Commission is the approval body.

Tokos said that with respect to the street vacation, it was initiated by the City Council. As noted in the staff report, the City Council can initiate a street vacation; but when they do, the criteria is different than a typical street vacation. Tokos read through the criteria from ORS 271.130. The first is have the owners of a majority of the affected area objected in writing? He explained that affected is different than abutting properties. Affected owners are within a specified notification area; effectively a triangle 400 feet to either side of the terminus of the street to be vacated and 200 feet perpendicular to the street. He said we ended up mapping that and making the list; and all of those property owners were sent notice. He noted that a copy of the mailing list was included in the packet. We received no objections to this proposal. The second criterion relates to the market value of abutting properties being adversely affected; and have they consented in writing to the vacation? He noted that the consents were received in writing, but not in time to be in the analysis. We now have all the consents; so this is addressed in that capacity. Also this will not adversely impact the market values; if it did, the City would be responsible for damages. For OMSI, the vacation makes their property more developable. With respect to the vacation of Anchor; which also serves as a service drive for these properties, they would still continue to have access to 101. Murry would connect at 32nd, Investors XII at 32nd and also Abalone and 35th when constructed. Regarding the third criterion specifying that notice has been duly given, notice was provided by mail and was published in the Newport News-Times. Prior to the City Council hearing, we will also post the property. The fourth criterion is whether the public interest will be prejudiced by the vacation. Tokos noted that included in the packet is fairly lengthy analysis he put together for the City Council. The Council put together a policy for when they will initiate vacation; and there are a number of standards there. Effectively the City Council found in initiating this vacation that the public interest would not be prejudiced. Tokos explained that largely these rights-of-way are being vacated in concert with reconfiguration as part of the platting process so that we can extend the streets as they have been planned in the Coho/Brant Neighborhood Plan. It is a benefit to OMSI in developing their property, for Investors XII in preparing a portion of their commercial property for development as well, and Richard Murry for what he is trying to accomplish on his developed property.

Tokos noted that Area "A" depicted on the plat map falls in the coastal gulley area. Through a Memorandum of Understanding (MOU), OMSI is looking to preserve that as a natural feature. A draft Conservation Easement that is pretty close to what it will look like is included with the subdivision materials. This is to ensure that that area is preserved while providing appropriate access. The reason it is being preserved is so that there are no chances of extending a street through there. Area "B" includes portions of 32nd, 33rd, Brant, and Coho Streets, which are the ones that cross through OMSI and are an impediment to their being able to develop. We have no plans to extend those streets. There are utilities in Brant and 33rd; but with the platting, there will be utility easements dedicated so we can maintain them. Area "C" is a small portion of Abalone that ties into 35th. There are no plans to extend beyond this. The TSP notes that there are no properties to the south to extend a collector roadway. It is State Park down there, so there is no reason to plan to extend a roadway. Lastly, Area "D" is that portion of Anchor being vacated. We don't need a public street long term in that location. It offsets some of the rights-of-way we are obtaining from those joint properties so they are not taking a loss. He said Investors XII may have a small loss. In the near term to make sure there is no adverse prejudices to the public, we will be maintaining a temporary access easement until 35th and Abalone is in place. There is a private property off Anchor that does need access there until there is the alternative access at 35th and Abalone; and that will ensure that property owner retains access. For Anchor, the road as traveled is not entirely in the right-of-way; when it was constructed the road didn't fall entirely within there. When the City was working with the property owners, they wanted to know where the road was in comparison to the right-of-way; and that is what the crosshatching indicates. Tokos noted that below 35th, one structure has been built on Lot 14. There are a couple of additional buildings below that; but they are outside the plat.

Tokos noted that lastly there's a standard under State law and NMC Chapter 14.25 that prohibits vacating rights-of-way that provide beach access. 33rd Street would provide direct access from Abalone to the State Park. That access is being replaced with OMSI's dedication of 30th Street. 30th will be improved between Brant and Abalone, which will effect access north of 33rd. Tokos said it is reasonable to find that the requirements of retaining public access have been maintained. The right-of-way will be replaced in an appropriate manner. Tokos noted that he did recommend one condition that he's suggesting the Planning Commission include. That is that should the City Council proceed with vacating the rights-of-way, to make it effective upon the recordation of the Sunset Dunes Plat and the conservation easement over Lot 1, Block 1. To make sure those are in place, he thinks those should occur simultaneously.

Berman asked if the funny shaped area on the left hand side of Lot 1 is the wetland; the conservation easement. Tokos said yes, that's correct. It's the surveyed gully area. Berman asked if there are plans by the owner to actually put in public access with natural walkways and that kind of thing; or is it just something in conservation. Tokos said he would defer that to OMSI.

Proponents: Jaimie Hurd with OMSI, 1945 SE Water, Portland. Hurd said that OMSI plans to maintain that conservancy and provide the public and OMSI with access. They are working with the City on that; but that is their intent. They will have educational signs and block it to protect the natural area.

Interested Parties: Robert Hoefs, PO Box 501, owner of the candy shop on 32nd Street and a partner in Ocean Investors. Hoefs said that he has some design things in the works to enlarge the candy factory and have a restaurant with a small bar. His plans are to develop that corner so we have a restaurant in South Beach that will seat 109 people. His understanding was that ODOT's plan is that once they have the new intersection at 35th, they will block the left lane traffic turning onto 32nd Street. He said that he doesn't own any of that property at 35th; but he wondered how that is going to lay out when the light goes to 35th Street. He said they took the turn lane out of his family's land with no argument from them because they gained a light. Now the plan is to move the light. Now the City is looking to buy property from the Schones for a lot of money and will compensate Dick Murry for his property.

Hoefs said his family never put up a stink when their property was taken. They agreed so that they had a turn lane to access their property. When they put in the light, that street that runs beside the Yaquina Inn was supposed to be blocked then. Now ODOT is saying they are moving the light for better flow over the bridge. He said the speed limit across the bridge was 55; now it's 35. He talked to PUD truck drivers who turn onto the highway from Hoovers, and they can't crest the bridge at 30 miles an hour now. ODOT says it's for flow of the bridge; it has no flow because of the 35 mile-per-hour speed limit. He said if they do take away the turn lane at 32nd Street, all the people turning to go to Pirates' Plunder and the hotels, will be turning at the new intersection at the light at 35th. If that is the case, all the traffic on that street will hinder traffic tremendously. If they leave a turn lane at 32nd, maybe you take at least half of that traffic. He said that he understands that OMSI needs that intersection. But those businesses on 32nd already have one in place. The patrons of the OMSI camp will be kids aged four to eight. They don't drive; they will be bused in. There are not cars being driven in there. There won't be much traffic flow into that area right now for OMSI; those people don't drive. He said that comment came from some other local people.

Tokos explained that the whole change in the Transportation System Plan (TSP) and the whole policy discussion and language added to the City's plan and the State's Highway Plan to relocate was part of the outreach in the timeframe of 2012. He said to be clear, the signal at 35th is about traffic flow on 101. It's not needed for OMSI. Their development didn't drive that at all. It was structurally about the traffic flow on 101 and getting the signal further south so that large vehicles would have more time to get up to speed going over the bridge. Tokos said, with regard to that, the State will be handling the construction of the signal and 35th Street. They are going to be initiating the design of that later this year. They anticipate construction starting in 2017. The specifics about what 35th will look like once the signal is moved has not been haggled out. Having a raised median and losing the left turn movement you want to have stay is a possibility. There's also a possibility that a turn lane can stay there. Some details need to be put together of what that design is. There's time to work that out when they begin the design before the actual construction in 2017.

Hoefs said there are several businesses here; 101 just happens to drive through the City. He said don't let ODOT affect the business owners and shut down that intersection and land lock their properties. Berman asked Tokos what the mechanism is for getting this to ODOT. Tokos said this has already been conveyed to ODOT and will continue to be. Hoefs said because of family health, he didn't catch any of those comment periods. He asked if since 2012, the speed limit on the bridge hasn't dropped. Tokos didn't know. Again, Hoefs said when they took a large chunk of his family's property, they didn't raise a stink; it never got to that. Croteau said ODOT looked at the issue of the speed limit going from the north side. The speed limit has to be reduced in downtown; and with increasing traffic to NOAA, HMSC, the aquarium, and the brewery, they didn't want them going across the bridge at 55. It was part of the TSP. Hoefs said as far as ODOT's reasoning, you would want to put the light even south of that for those trucks leaving the PUD.

Rocky Houston of Western Beverage, PO Box 40. Houston said he's not opposing the development. He has always had the conversation if you are moving the light, you should go to 40th instead of 35th. He said Western Beverage has trucks coming and going on a daily basis from 130 SE 32nd. He said that is the issue they are concerned with; it's more with the ODOT plan. He knows what they are talking about; but 35th won't do what they want. He said they are putting it in the wrong spot. His concern is with ODOT.

Patrick closed the hearing at 7:35 p.m. for Commissioners' deliberation. East felt that the Commission should forward the action to the City Council with a recommendation for going ahead with the street vacations. Croteau said it is necessary preliminarily as the South Beach area is going to be developing. It just has to be done. There's no alternative. Berman concurred. Hardy agreed; but she thought an interesting discussion was the impact on businesses. She didn't know if there was any way to change ODOT's plan. She asked if whether the plan to vacate these streets and replace them with what we are talking about later was designed around ODOT'S location; or was the location just an unrelated event. Tokos said that losing Abalone and tying in is part of the package. The signal at 35th is an important piece with Abalone coming down and looping. It's not needed for access to the OMSI property specifically. They could be separated. The signal is not part of this proposal. The intersection construction and signal are under a STIP-funded project with ODOT. He doesn't know of any further land use actions needed at this point. It was put into the TSP; and we informed the public through public hearings at that time. The project is moving to design and is fully funded at this point. Hardy said that she sees no problem going ahead with the street vacations. Patrick said the light was getting moved to 35th whether there was a road on the west side or not. It didn't exist until this proposal came about. The change of the signaled intersection goes back quite a ways. He said we talked about it in 2008. The TSP followed after that. That is how it got there. He said that was ODOT. Berman asked when Anchor Way is vacated, how the land is allocated between the two owners. Tokos said it typically splits 50/50. However, in this case between the two owners it worked out better having Dick Murry having more and compensating Investors XII for the extra area. As part of this, we had to appraise the rights-of-way we are needing. The rest is balancing out with OMSI. Dick Murry and Investors XII didn't need to have Anchor vacated at all; but they were fine as long as they got the land. Berman asked if the access to the industrial buildings was 35th. Tokos said what will happen is when the temporary access easement ends when 35th and Anchor is finished, then Dick Murry will be relocating the "as traveled" Anchor on his property. He would have that access to those industrial properties and still have access at 32nd. It would be his road at that point; and also access at 35th. Once 35th and Abalone is in place, Anchor between 32nd will go away; but he has business access, and those three buildings will have access on 35th. The buildings are all on the same lot. Berman said that the parking is now on the west side of those three buildings. Tokos said there will be two accesses. Dick Murry will be shifting Anchor onto his property. Those three industrial buildings will have access on Anchor, just slightly to the east. There will be a curb cut onto 35th. Patrick said he is in favor of the street vacations. He said we worked back in 2008 with all of the workshops. He said this is a good idea. Patrick said he was looking for a motion to

recommend to the City Council that they approve the vacation with the two conditions; the temporary access way and the conservation easement. Tokos said that the condition is that the vacation go into effect when the subdivision plat and the conservation easement are recorded. Croteau said that there have been some legitimate issues raised that need consideration; but he feels the proposal meets the statutory criteria.

MOTION was made by Commissioner Croteau, seconded by Commissioner East, to recommend File 1-SV-14 favorably to the City Council with the provided conditions indicated in the document. The motion carried unanimously in a voice vote.

2. 1-SUB-13: A subdivision plat initiated by the Newport Urban Renewal Agency that will reconfigure properties owned by the Oregon Museum of Science and Industry (OMSI), Investors XII, LLC, and Dick Murry in order to position SW 30th Street, SW 35th Street, and SW Abalone Street rights-of-way for future street improvements. New rights-of-way need to be dedicated for this purpose, and a subdivision platting process is the most efficient method of establishing the location of the road rights-of-way.

Patrick opened the public hearing for File No. 1-SUB-13 at 7:45 p.m. by reading the summary from the agenda; and he called for the staff report. Tokos said on this action he needed to disclose that this is from the Urban Renewal Agency, and he is also staffing that agency as well as representing the Community Development Department. If he were the decision-maker, it would be a conflict issue. He is not the decision-maker; therefore it's fine. He is wearing the applicant's hat and the staff's hat at the same time on this one. He said this is a subdivision plat as noted. This reconfigures privately-owned property for positioning rights-of-way for this 33 acres that will connect 30th between Brant and Abalone and Abalone to 35th. The street alignment for Abalone and 30th were worked out as part of the Coho/Brant Refinement Plan. Tokos noted that the staff report includes a number of findings in applying the subdivision criteria. Typically with a subdivision plat, the improvements have to be constructed before final recordation. However, if the subdivision is strictly to reconfigure rights-of-way, you don't have to have the improvements in before the final plat is recorded; and that is the case here. So this meets that standard. The plat would be recorded before the street improvements are done. Funding is in place between the Urban Renewal Agency and OMSI to construct 30th and Abalone all the way down basically where Anchor comes into 35th. The State when it does 35th will construct across and tie in at that point. The plans have Abalone Street with a multi-use path along the OMSI frontage. It will be a little narrower than full build-out. Investors XII when they make their improvements will put in sidewalk and widen the road. 30th will be constructed with a multi-use path on the south side between Brant and Abalone. Funding is in place for this. This will be part of the Phase 2 borrow that Urban Renewal will be doing in the spring. There are three phases; and each has a program of projects. These are in Phase 2 at about \$5.4 million. For each project, we do the borrowing and build the projects. These projects are budgeted and are scheduled for construction for the summer of 2015. We are working on the design work for some of the elements of this already. Tokos said the owners impacted here would be OMSI, Investors XII, and Dick Murry; and he has outlined the properties in the staff report. He noted also that he had the full case record with him if anyone needed it.

Berman asked if 33rd Street is going away entirely in the vacation the Commission just did. Tokos said that will go away. That is being vacated because it is in the OMSI campus. The City will be retaining an easement over the existing water and sewer lines that are partially within 33rd and partially in Brant. Tokos said that construction of 35th will possibly be about the same time as Abalone. We have a pretty good idea how that will happen. Berman asked if SW Abalone will go around Safe Have Hill and then turn south for all access to the OMSI property. Tokos said they can access on Abalone to the north where the curved road is. Until 35th is constructed, Anchor will continue to be public. Anchor to Abalone, they will be able to tie in at the south end there. Also at the north end where the new Abalone will tie into the existing, which is essentially the Pioneer Cemetery access now.

Proponents: Jaimie Hurd with OMSI, 1945 SE Water, Portland. Hurd said they expect to start these site improvements in March 2015, which is slightly in advance of the real construction. They are working with the City to coordinate those efforts.

Interested Parties: Robert Hoefs, PO Box 501, owner of the candy shop on 32nd Street and Ocean Investors. Hoefs asked Tokos if the way this is set up, 32nd Street can be terminated on the west side of 101. Tokos said no, there will still be a stub. It's still public access to Dick Murry and Investors XII who have a large commercial piece there. Investors XII sold to OMSI the portion west of Abalone and retained the portion between Abalone and 101. What they retained is under commercial zoning. Hoefs said if they ever develop that or sell 32nd Street; when they all come down to 35th, ODOT will be back doing something to the 32nd access. Tokos said that Investors XII is comfortable with the scenario where we restrict access at 32nd but keep that stub for their personal use. It is better for them to keep that stub as a city public street as opposed to them having to ask ODOT for a private access. They were comfortable with having access to 35th via Abalone. Hoefs wondered if, from the Fire Marshal's perspective, a turn lane is needed at 32nd. If there is a fire at any of those places there, the fire trucks would have to go 15, 20, or 30 blocks to get to anything back in there if it gets blocked at 32nd. He said the City can throw that out to ODOT. Patrick said typically you get a raised median, and fire trucks just drive over it.

Patrick closed the hearing at 7:58 for Commissioners' deliberation. Hardy saw no problem with the subdivision request. Berman said that he didn't see any problem other than timing and phasing for construction vehicles getting in and out with some efficiency. He had no objections. Croteau said there are a lot of issues to be worked out; but for what he sees in front of him, the request meets the criteria. East concurred. Patrick also felt it meets the criteria. He said we will note on the record that there are some objections to how 32nd Street is being handled on the east side. He said that we will address the issues if we get the chance.

Hoefs said if ODOT is taking away the existing turn at 32nd and not allowing people to turn there any more, he has a problem. He said fire trucks will drive over the median; and so will anybody else. If they do an island there, then they made it impossible for fire trucks to get across. He said even a flashing light there so they can turn. For people coming off the bridge, it gives them a chance to be able to brake for a traffic light. Patrick reminded Hoefs that the hearing portion was closed and the Commission was now in deliberations. He recommended that Hoefs take this up at City Council to get the process started.

Croteau felt that the criteria for granting approval of this tentative subdivision plat have been met.

MOTION was made by Croteau, seconded by East, to approve File No. 1-SUB-13. The motion carried unanimously in a voice vote.

G. New Business. No new business.

H. Unfinished Business. Tokos said, going back to the action item with the workforce housing letter of support, he thought it would be helpful if a Planning Commission member was in attendance to present that letter to the City Council on July 21st. Croteau said that he could do that.

I. Director's Comments.

1. Tokos gave an update on the status for medical marijuana dispensaries. The City Council will consider an ordinance that puts in place some standards, many of which the Planning Commission recommended. They added in a couple of additional ones; the Police Department's request with respect to alarms is going in, as is hold harmless language that the City Attorney is putting together. The rest of the standards were recommendations made by the Planning Commission; additional background checks, Police access to the same records that OHA has, and Police access to the facilities when somebody is there. The City Council will be considering that ordinance on July 21st. It will be as a business license endorsement with supplemental standards. They will be repealing the temporary moratorium as of the date the ordinance becomes effective (30 days essentially). The moratorium will expire at that time.

2. Regarding the South Beach Town Hall meeting on June 30th, Tokos noted that there were about 120 plus people there. We had an opportunity to talk about a lot of things including a lot of these projects we've discussed tonight. He noted that Jaimie Hurd made a presentation for OMSI. HMSC had a presentation and announced that they received a substantial donation of \$20 million; so they are well on their way to securing financing for the building where they will have space for classrooms and research. Berman asked where the location was for this new building. Tokos said west of the Library in that undeveloped area. He continued that he had a chance to talk about the Urban Renewal work at that meeting. The biggest thing was that the URA entered into a purchase agreement with the Schones family who own the northeast corner at 35th and 101. It's about 2.3 acres and is a \$1.5 million acquisition. The purpose of that purchase is for a couple of things. One, we will need additional right-of-way off 35th to accomplish those improvements. The Agency believes that this is a good opportunity when putting that kind of investment into infrastructure to have control over one corner so we can sell it afterward for some kind of development. Hopefully to attract service uses not currently in South Beach. That purchase agreement provides about six months for outreach for a minor amendment to the SBUR Plan. There will be some outreach. The City Council wants to hear what people feel about this; so they will give people a chance to weigh in before it's a done deal. This purchase was announced at the Town Hall meeting and we entered into the purchase agreement on the 7th. Bonnie Serkin with Wilder gave a presentation on where they are heading with their plans. They are just about sold out of lots in Phase 1 and are looking at Phase 2. One thing that they will be constructing where the dog park is now is a coffee shop; and the dog park will get relocated.

Croteau asked Tokos if there is any word on how HMSC will house their 500 students. Tokos said that they don't have a clear plan at this point. Their focus is getting funding in place for their building. As they get closer to bringing more students in, they realize that is something that needs to be addressed. Croteau asked if they have no dormitory or housing. Tokos said it's not funded. He said HMSC also recognizes that with 500 students, they won't be able to continue the housing they have now, which is in a tsunami area. If students are housed there 24/7, they don't want them in that tsunami area. It remains to be seen whether HMSC takes a proactive approach in finding housing or funding it, or lean on the community to absorb that. And we already have such a tight rental market here.

Patrick said that one thing that came up at that meeting was that a temporary batch plant was put in down there in South Beach. He said evidentially they do not need permitting. He wondered if the Planning Commission should take that up. He wondered if there is an outright ban against doing that. Is there any way to require them to get permission to do that? Tokos said he would be cautious about that. That land was brought into the City with heavy industrial zoning around the same time as Landwaves. That is an outright permitted use in the I-3 zone. He said had they been looking to do that on a permanent basis, they would have had to do a Traffic Impact Analysis (TIA), and we would be looking at the traffic they generate like Teevin Bros. had to do. It would have been only the TIA for the road uses and vehicle safety; not noise and smell. It is an outright permitted use, and we don't get into those types of issues. The City has a nuisance code that deals with noise and has with this particular issue. They had to get a business license. Croteau asked what the State had to do. Was it entirely on the operator to find a site? Tokos said DEQ primarily; the landowner through DEQ. They cleared the land. They are permitted for storm water impact and air emissions, which DEQ deals with. This particular operation has an operational permit from DEQ. The City has a temporary permitting process for temporary structures like

the cherry stands and offices such as the Port's. In this case it was a temporary batch plant for four months. They did obtain a temporary permit from the City. The TIA didn't apply because it gets to permanent improvements. We do have the capacity when they start getting dirt on the road to enforce against waste discharge on roads. That's a nuisance issue; not a land use.

3. Berman wondered if there has been any thought put into normalizing the city limits in South Beach. Tokos asked if he meant annexing those properties that are surrounded by city limits and said that is a Council goal; but they haven't gotten to that conversation. One of their goals is to sort that out. Especially getting those properties annexed where the City extended water and sewer.

4. Tokos was asked how the talks with the taxing entities regarding the north side urban renewal district are working out. He said that he had to side bar that through the budget cycle and hasn't picked it up yet. He is hoping within the next couple of months to start to move on that again.

K. Adjournment. Having no further business to discuss, the meeting adjourned at 8:15 p.m.

Respectfully submitted,



Wanda Haney
Executive Assistant

CITY OF NEWPORT
169 SW COAST HWY
NEWPORT, OREGON 97365

COAST GUARD CITY, USA



phone: 541.574.0629
fax: 541.574.0644
<http://newportoregon.gov>
mombetsu, japan, sister city

CONSENT TO SUBDIVISION AND STREET VACATION APPLICATION

As an affected and abutting property owner, I hereby consent to the Newport Urban Renewal Agency initiating the proposed subdivision plat and street vacations as depicted on the drawing titled "Plat of Sunset Dunes," prepared by Denison Surveying Inc., dated June 6, 2014.

Signature: Richard G. Murry

Printed Name/Title:
Richard G. Murry, Owner

Date: 7/14/14

Affected Properties:

3234 S Coast Hwy (Tax Lot 1200, Map 11-11-17-DB)
3414 S Coast Hwy (Tax Lot 1300, Map 11-11-17-DB)
3441 SW Anchor Way (Tax Lot 1201, Map 11-11-17-DB)

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Signature: _____

Nancy Stueber

Printed Name/Title: _____

Nancy Stueber / President

Date: 7/10/14

Affected Properties:

Tax Lot 200, Map 11-11-17-CA, Tax Lot 2703, Map 11-11-17-CA, Tax Lot 2803, Map 11-11-17-CA, Tax Lot 3100, Map 11-11-17-CA, Tax Lot 3200, Map 11-11-17-CA, Tax Lot 3300, Map 11-11-17-CA, Tax Lot 3500, Map 11-11-17-CA, Tax Lot 3501, Map 11-11-17-CA, Tax Lot 3600, Map 11-11-17-CA, Tax Lot 3700, Map 11-11-17-CA, Tax Lot 4400, Map 11-11-17-CA, Tax Lot 4401, Map 11-11-17-CA, Tax Lot 4402, Map 11-11-17-CA, Tax Lot 4600, Map 11-11-17-CA, Tax Lot 4601, Map 11-11-17-CA, Tax Lot 4700, Map 11-11-17-CA, and Tax Lot 4800, Map 11-11-17-CA.

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INVESTORS XII, LLC.

Signature: [Handwritten Signature]

Printed Name/Title: REGINALD P. BREEZE

Date: 7-11-14

Affected Properties:

Tax Lot 1800, Map 11-11-17-DB

Tax Lot 1400, Map 11-11-17-DC



NEATHAMER SURVEYING, INC.

July 11, 2014

CITY OF NEWPORT: PLANNING COMMISSION

C/o: Derrick I. Tokos, AICP
Community Development Director
169 SW Coast Highway
Newport, OR 97365

Re: Land Use File No(s): 1-SV-14, 1-SUB-13

The Honorable Newport Planning Commission:

On behalf of our clients, Investors XII, LLC. (Investors XII), Neathamer Surveying, Inc. (NSI) respectfully submits this letter regarding the referenced Land Use File Numbers and requests that this letter be placed in the land use/planning records.

Investors XII and NSI have reviewed the Planning Commission Meeting Packet for the meeting to be held on July 14, 2014 and are in support of the application for the Street Vacation of SW Anchor Way and the Proposed Subdivision Plat so long as the proposals remain consistent with those contained in said meeting package.

By the submittal of this letter, Investors XII has established standing and reserves the right of appeal in the event that, during the course of approval, modifications transpire that are inconsistent with the current proposal.

If you have any questions or need additional information, please contact this office.

Respectively,

Neathamer Surveying, Inc.

By: *Robert V. Neathamer, PLS*
Robert V. Neathamer, President

CITY OF NEWPORT
CORRECTED NOTICE OF A PUBLIC HEARING ON A PARTIAL STREET VACATION¹
(new or amended language is in *italics*)

NOTICE IS HEREBY GIVEN that the City Council of the City of Newport, Oregon, will hold a public hearing on Monday, August 18, 2014, to review the following:

File No. 1-SV-14:

This *proposal to vacate rights-of-way, initiated by the City Council on April 7, 2014*, is to vacate portions of SW 31st Street, SW 32nd Street, SW 33rd Street, SW Coho Street, SW Brant Street, SW Abalone Street, and SW Anchor Way as road rights-of-way that are not needed for public purposes. These street vacations are being undertaken in concert with a subdivision plat that will reconfigure SW 30th Street, SW 35th Street and SW Abalone Street for future street improvements.

Applicable Criteria: For city-initiated street vacations, Oregon Revised Statutes (ORS) 271.130 provides: (1) The city governing body may initiate vacation proceedings authorized by ORS 271.080 and make such vacation without a petition or consent of property owners. Notice shall be given as provided by ORS 271.110, but such vacation shall not be made before the date set for hearing, nor if the owners of a majority of the area affected, computed on the basis provided in ORS 271.080, object in writing thereto, nor shall any street area be vacated without the consent of the owners of the abutting property if the vacation will substantially affect the market value of such property, unless the city governing body provides for paying damages. Provision for paying such damages may be made by a local assessment, or in such other manner as the city charter may provide; (2) All city liens and all taxes have been paid on the lands covered by the plat or portion thereof to be vacated. Additionally, pursuant to ORS 271.120, the governing body must determine by ordinance that the above requirements have been satisfied and that the public interest will not be prejudiced by the vacation action.

Testimony: *Any objection or remonstrance to this street vacation must be made in writing prior to this hearing or may be made in person at the time of the hearing.* Testimony and evidence must be directed toward the request above or other criteria, including criteria within the Comprehensive Plan and its implementing ordinances, which the person believes to apply to the decision. Failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to that issue precludes an appeal (including to the Land Use Board of Appeals) based on that issue. Testimony may be submitted in written or oral form. Oral testimony and written testimony will be taken during the course of the public hearing. The hearing may include a report by staff, testimony from the applicant and proponents, testimony from opponents, rebuttal by applicant and questions and deliberation by the City Council. Written testimony sent to the Community Development (Planning) Department (address under "Reports/Materials") must be received by 5:00 p.m. the day of the hearing to be included as part of the hearing or must be personally presented during testimony at the public hearing. Pursuant to ORS 197.763 (6), any person prior to the conclusion of the initial public hearing may request a continuance of the public hearing or that the record be left open for at least seven days to present additional evidence, arguments, or testimony regarding the application.

Reports/Materials: The staff report may be reviewed or a copy purchased at the Newport Community Development (Planning) Department, City Hall, 169 S.W. Coast Hwy, Newport, Oregon, 97365, seven days prior to the hearing. The file materials and the applicable criteria are currently available for inspection at no cost or copies may be purchased for reasonable cost at this address.

Contact: Derrick Tokos, Community Development Director (541) 574-0626, d.tokos@newportoregon.gov (mailing address above in "Reports/Materials").

Time/Place of Hearing: Monday, August 18, 2014; 6:00 p.m. or shortly thereafter; City Hall Council Chambers (address above in "Reports/Materials").

¹ Notice of the public hearing is being sent to affected property owners (according to Lincoln County Assessor's records) within the notification distance required for the request, affected public/private utilities/agencies, and affected city departments.

MAILED: July 21, 2014 (original notice)
July 23, 2014 (corrected notice)

PUBLISHED: August 1, 2014, August 6, & August 13, 2014/News-Times.

Wanda Haney

From: Wanda Haney
Sent: Monday, July 21, 2014 12:06 PM
To: Elwin Hargis; Jim Protiva; Mark Miranda; Mike Murzynsky; Rob Murphy; Spencer Nebel; Ted Smith; Tim Gross; Victor Mettle
Subject: Notice - File 1-SV-14
Attachments: Notice - File 1-SV-14 CC.doc

Attached is a notice of a City Council public hearing regarding partial street vacations. Please review this information to see if you would like to make any comments. We must receive comments at least 10 days prior to the hearing in order for them to be considered. **Should no response be received, a "no comment" will be assumed.**

Thanks,

Wanda Haney
Executive Assistant
City of Newport
Community Development Department
541-574-0629
FAX 541-574-0644
w.haney@newportoregon.gov

STATE OF OREGON
% DEPT OF PARKS & RECREATION
725 SUMMER ST NE STE C
SALEM, OR 97301

WARD PAUL S &
WARD JUDITH A
241 SW BIRCH
DALLAS, OR 97338

GRANTHAM & HOOPER
% SOUTH BEACH GROCERY INC CONT
PO BOX 581
SOUTH BEACH, OR 97366

CROWDER DANIELLA &
CROWDER ELLIOTT D
312 SW 29TH ST
NEWPORT, OR 97365

COOPER MELISSA MARY
ATTN HEINEN MARY ISABELLA
2124 FRUITVALE RD
NEWPORT, OR 97365

T&M PACIFIC PROPERTIES LLC
PO BOX 567
NEWPORT, OR 97365

MARSHALL LINDA L &
MARSHALL RICK &
MARSHALL ANN
1147 SW IRICK COURT
DALLAS, OR 97338

VILLA BY THE SEA LLC
ATTN ROBERT H FOSS MANAGER
920 SCENIC WOOD PLACE
ALBANY, OR 97321

BRAXLING BONNIE ABERSON TRSTEE
PO BOX 240
NEWPORT, OR 97365

SMITH KENNETH L
1227 NW LAKE ST
NEWPORT, OR 97365

OREGON DEPT OF TRANSPORTATION
TECHNICAL LEADERSHIP CTR
RIGHT OF WAY SECTION MS#2
4040 FAIRVIEW IND DR SE
SALEM, OR 97302

SONNENBERG EUGENE A &
SONNENBERG LINDA G
TRUSTEES
PO BOX 275
SOUTH BEACH, OR 97366

STEWART JAMES E TRUSTEE ETAL
5293 AMBER FIELDS DR
SHINGLE SPRINGS, CA 95682

SIMMONS CLAUDE B &
SIMMONS WANDA K
20680 NE SIERRA DR
BEND, OR 97701

DERISCHEBOURG SARA JANE
315 SW 29TH ST
NEWPORT, OR 97365

SHRIFTER THOMAS C &
SHRIFTER SUSAN L
225 SW 29TH ST
NEWPORT, OR 97365

****undeliverable****
STEVENS GREGORY H &
STEVENS DAVID T
PEPPERDINE UNIVERSITY
24255 PACIFIC COAST HWY #3247
MALIBU, CA 90263

WOODS MICHAEL R &
WOODS FLORENCE M
1617 NE 205TH AVE
FAIRVIEW, OR 97024

****UNDELIVERABLE****
MIDDLEBROOKS AMANDA
226 SW 30TH
NEWPORT, OR 97365

HOFFMAN CRAIG S &
HOFFMAN REBECCA L
PO BOX 549
TOLEDO, OR 97391

INVESTORS XII LLC
830 OHARE PKY STE 100
MEDFORD, OR 97504

INDUSTRIAL WELDING SUPPLY INC
PO BOX 20340
SALEM, OR 97307

JACKSON DEBRA LYNN &
GLIDDEN BYRON J
31532 FOX HOLLOW RD
EUGENE, OR 97405

ERISMAN PHYLLIS
355 SW 29TH ST
NEWPORT, OR 97365

GAFFIN JOYCE
PO BOX 530
SOUTH BEACH, OR 97366

CLINE BROOKS DYANNE
217 SW 29TH
NEWPORT, OR 97365

JONES CYNTHIA L &
JONES DAVID F
2653 BRENTWOOD AVE
BURLEY, ID 83318

LAWRENCE KIM D
250 SW 30TH ST
NEWPORT, OR 97365

OREGON MUSEUM OF
SCIENCE & INDUSTRY
ATTN CARLSON PAUL E
1945 SE WATER AVE
PORTLAND, OR 97214

SOUTH BEACH INN VESTMENTS LLC
ATTN HOSPITALITY ASSOC INC
45 SE 32ND ST
NEWPORT, OR 97365

NEWPORT HOSPITALITY LLC
135 SE 32ND ST
NEWPORT, OR 97365

ARLO DEVELOPMENT CO
PO BOX 19478
PORTLAND, OR 97280

ROWLEY WILLIAM D TRUSTEE
PO BOX 1746
NEWPORT, OR 97365

BATES ENTERPRISES III LLC
5156 SW MULTNOMAH BLVD #A
PORTLAND, OR 97219

OCEAN INVESTORS
PO BOX 501
NEWPORT, OR 97365

ORCAS TRIAD II LLC
ATTN GRAHAM DORLAND
7933 N PIMA VILLAGE CT
TUCSON, AZ 85718

MURRY RICHARD G
13398 ALSEA HWY
TIDEWATER, OR 97390

File 1-SV-14
Mailing Labels

cc

**Lincoln County Assessor
Lincoln County Courthouse
225 W Olive St
Newport OR 97365**

**DLCD Coastal Services Ctr
810 SW Alder St Ste B
Newport OR 97365**

**CenturyLink
ATTN: Corky Fallin
740 State St
Salem, OR 97301**

**Planning & Development Mgr
Oregon Dept Of Transportation
Region 2 Headquarters
455 Airport Rd SE Bldg B
Salem OR 97301-5395**

**Central Lincoln PUD
ATTN: Randy Grove
PO Box 1126
Newport OR 97365**

**Lincoln County Clerk
Lincoln County Courthouse
225 W Olive St
Newport OR 97365**

**NW Natural
ATTN: Alan Lee
1405 SW Highway 101
Lincoln City OR 97367**

**Charter Communications
ATTN: Keith Kaminski
355 NE 1st St
Newport OR 97365**

**Lincoln County Commissioners
Lincoln County Courthouse
225 W Olive St
Newport OR 97365**

**Lincoln County School District
ATTN: Superintendent
PO Box 1110
Newport OR 97365**

**Lincoln County Surveyor
880 NE 7th St
Newport OR 97365**

**OREGON DEPT OF PARKS & REC
ATTN: TONY STEIN
810 SW ALDER ST
NEWPORT OR 97365**

**Ted Smith
Library Director**

**Tim Gross
Public Works**

**Rob Murphy
Acting Fire Chief**

**Mark Miranda
Police Chief**

**Mike Murzynsky
Finance Director**

**Elwin Hargis
Building Official**

**Victor Mettle
Code Administrator/Planner**

**EXHIBIT 'A'
Affected Agencies**

**Jim Protiva
Parks & Rec.**

CC

CITY OF NEWPORT
NOTICE OF A PUBLIC HEARING ON A PARTIAL STREET VACATION

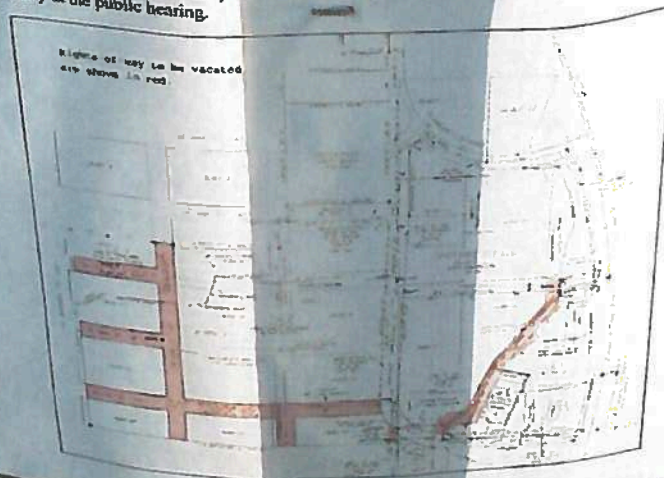
The City Council of the City of Newport, Oregon, will hold a public hearing on Monday, August 18, 2014, at 6:00 p.m. or shortly thereafter in the City Council Chambers to consider File No. 1-SV-14, a proposal to vacate rights-of-way as initiated by the City Council on April 7, 2014, involving portions of SW 31st Street, SW 32nd Street, SW 33rd Street, SW Coho Street, SW Brant Street, SW Abalone Street, and SW Anchor Way as road rights-of-way that are not needed for public purposes. These street vacations are being undertaken in concert with a subdivision plat that will reconfigure SW 30th Street, SW 35th Street and SW Abalone Street for future street improvements. For city-initiated street vacations, Oregon Revised Statutes (ORS) 271.130 provides: (1) The city governing body may initiate vacation proceedings authorized by ORS 271.080 and make such vacation without a petition or consent of property owners. Notice shall be given as provided by ORS 271.110, but such vacation shall not be made before the date set for hearing, nor if the owners of a majority of the area affected, computed on the basis provided in ORS 271.080, object in writing thereto, nor shall any street area be vacated without the consent of the owners of the abutting property if the vacation will substantially affect the market value of such property, unless the city governing body provides for paying damages. Provision for paying such damages may be made by a local assessment, or in such other manner as the city charter may provide; (2) All city liens and all taxes have been paid on the lands covered by the plat or portion thereof to be vacated. Additionally, pursuant to ORS 271.120, the governing body must determine by ordinance that the above requirements have been satisfied and that the public interest will not be prejudiced by the vacation action. Any objection or remonstrance to this street vacation must be made in writing prior to this hearing or may be made in person at the time of the hearing. Testimony and evidence must be directed toward the request above or other criteria, including criteria within the Comprehensive Plan and its implementing ordinances, which the person believes to apply to the decision. Failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to that issue precludes an appeal (including to the Land Use Board of Appeals) based on that issue. Testimony may be submitted in written or oral form. Oral testimony and written testimony will be taken during the course of the public hearing. The hearing may include a report by staff, testimony from the applicant and proponents, testimony from opponents, rebuttal by applicant and questions and deliberation by the City Council. Written testimony sent to the Community Development (Planning) Department, City Hall, 169 SW Coast Hwy, Newport, OR 97365, must be received by 5:00 p.m. the day of the hearing to be included as part of the hearing or must be personally presented during testimony at the public hearing. Pursuant to ORS 197.763 (6), any person prior to the conclusion of the initial public hearing may request a continuance of the public hearing or that the record be left open for at least seven days to present additional evidence, arguments, or testimony regarding the application. The staff report may be reviewed or a copy purchased at the Newport Community Development (Planning) Department (address above) seven days prior to the hearing. The file materials and the applicable criteria are currently available for inspection at no cost or copies may be purchased for reasonable cost at this address. Contact Derrick Tokos, Community Development Director (541) 574-0626, d.tokos@newportoregon.gov (mailing address above).

FOR PUBLICATION ONCE ON FRIDAY, AUGUST 1, 2014, WEDNESDAY, AUGUST 6, 2014, AND WEDNESDAY, AUGUST 13, 2014.

CITY OF NEWPORT NOTICE OF STREET VACATION

The Newport City Council will hold a public hearing on Monday, August 18, 2014 at 6:00 p.m. in the City Hall Council Chambers to take public testimony and hear any objections to a proposal to vacate portions of SW 31st Street, SW 32nd Street, SW 33rd Street, SW Coho Street, SW Brant Street, SW Abalone Street and SW Anchor Way (File No. 1-SV-14). The City Council initiated the process for vacating the above referenced streets at its April 7, 2014 meeting. Abutting properties are owned by the Oregon Museum of Science and Industry (OMSI), Investors XII, LLC, and Richard Muzy and are identified on Assessor's Tax Map 11-11-17-CA and 11-11-17-DC.

For additional information, contact Derrick Tokos, Community Development Director (541) 574-0626. Written testimony may be sent to the Community Development Department at 169 SW Coast Hwy, Newport, OR 97365. Such testimony must be received by 5:00 p.m. the day of the hearing to be included as part of the hearing or must be personally presented during testimony at the public hearing.



Close-up of Posted Notice at NW Anchor Way – August 6, 2014

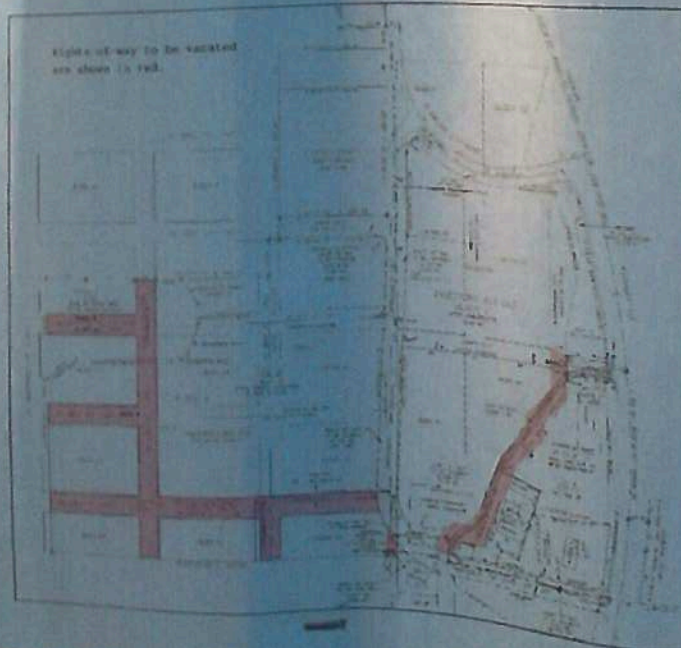


Posted Notice at NW Anchor Way – August 6, 2014

CITY OF NEWPORT NOTICE OF STREET VACATION

The Newport City Council will hold a public hearing on Monday, August 18, 2014 at 6:00 p.m. in the City Hall Council Chambers to take public testimony and hear any objections to a proposal to vacate portions of SW 31st Street, SW 32nd Street, SW 33rd Street, SW Coho Street, SW Brant Street, SW Abalone Street and SW Anchor Way (File No. 1-SV-14). The City Council initiated the process for vacating the above referenced streets at its April 7, 2014 meeting. Abutting properties are owned by the Oregon Museum of Science and Industry (OMSI), Investors XII, L.L.C., and Richard Murry and are identified on Assessor's Tax Map 11-11-17-CA and 11-11-17-DC.

For additional information, contact Derrick Tokos, Community Development Director (541) 574-0626. Written testimony may be sent to the Community Development Department at 169 SW Coast Hwy, Newport, OR 97365. Such testimony must be received by 5:00 p.m. the day of the hearing to be included as part of the hearing or must be personally presented during testimony at the public hearing.



Close-up of Posted Notice at NW Coho Street – August 6, 2014



Posted Notice at NW Coho Street – August 6, 2014

CITY MANAGER'S REPORT AND RECOMMENDATIONS



Agenda Item:

Public Hearing and Possible Action the Adoption of Ordinance No. 2070- Ordinance Repealing and re-enacting Chapter 11:10 of the Newport Municipal Code through the adoption of the 2014 Oregon Fire Code

Background:

The office of the State Fire Marshal has statutory authority in Oregon to adopt a Fire Code. The Office uses the Model Code from the International Code Council (ICC) and, along with amendments from the Oregon Fire Code Committee, adopts the Oregon Fire Code. All jurisdictions in Oregon are required to adopt the 2014 Code by September 1, 2014.

Recommended Action:

I recommend the Mayor conduct a public hearing on Ordinance No. 2070, an ordinance repealing and re-enacting Chapter 11.10 of the Newport Municipal Code and adopting the 2014 Oregon Fire Code.

Following public hearing I further recommend the City Council approve the following motion:

I move that the City Council adopt Ordinance No. 2070, an ordinance repealing and re-enacting Chapter 11.10 of the Newport Municipal Code through adopting the 2014 Oregon Fire Code, be read by title only and placed for final passage.

The Mayor will then ask for a voice vote on whether to read the ordinance by title only and place for final passage.

If approved, the City Recorder will read the title of the ordinance.

A roll call vote on the final passage of the ordinance will then be requested by the Mayor and taken by the City Recorder.

Fiscal Effects:

There is a minimal financial impact of \$330 for purchase of new code books. This purchase was budgeted in the 2014/2015 fiscal year budget.

Alternatives:

None

Respectfully Submitted,

Spencer R. Nebel, City Manager



Agenda Item # _____

Meeting Date 08/18/2014

CITY COUNCIL AGENDA ITEM SUMMARY
City Of Newport, Oregon

Issue/Agenda Title Adoption of 2014 Fire Code

Prepared By: Murphy Dept Head Approval: RMM City Mgr Approval: _____

Issue Before the Council: The issue before Council is the repeal of the 2010 Fire Code and adoption of Ordinance No. 2070 adopting the 2014 Fire Code.

Staff Recommendation: Staff recommends adoption of Ordinance No. 2070.

Proposed Motion: I move to read Ordinance No. 2070, repealing and re-enacting Chapter 11.10 of the Newport Municipal Code and adopting the 2014 Oregon Fire Code, by title only and place for final passage.

Key Facts and Information Summary: The Office of the State Fire Marshal (OSFM) has statutory authority in Oregon to adopt a Fire Code. The Office uses the Model Code from the International Code Council (ICC) and, along with amendments from the Oregon Fire Code Committee, adopts the Oregon Fire Code. In April of this year, the 2014 Oregon Fire Code was approved by the OSFM and all jurisdictions in Oregon are required to adopt the 2014 Code by September 1, 2014.

The Council adopts the Oregon Fire Code by ordinance to enable staff to enforce the code as a Municipal Code violation.

Other Alternatives Considered: No other alternatives are possible. This is a statutory requirement.

City Council Goals: 5.2 Pursue accreditation for the city's Fire Department. Adopting the current Fire Code is essential to obtaining accreditation.

Attachment List: Ordinance No. 2070

Fiscal Notes: There is a minimal financial impact of \$330 for purchase of new code books. This purchase was budgeted in the 2014/2015 fiscal year budget.

CITY OF NEWPORT
ORDINANCE NO. 2070
AN ORDINANCE REPEALING AND RE-ENACTING
CHAPTER 11.10 OF THE NEWPORT MUNICIPAL CODE
AND ADOPTING THE 2014 OREGON FIRE CODE

Findings:

1. The city has previously adopted a fire code by Ordinance Nos. 1824 and 1918.
2. To achieve uniform standards throughout the state, the state fire marshal has adopted the 2014 Oregon Fire Code.
3. The city is required to have a fire code consistent with the state code, and the city believes that a uniform code throughout the state is of assistance to builders, property managers, and fire enforcement officials by providing a uniform set of standards available to all.
4. The city does not have the resources to develop a complete fire code of its own.
5. The city's Fire Marshal has reviewed the 2014 Oregon Fire Code and determined that the code provides appropriate standards relating to fire prevention.

Based on the above findings:

THE CITY OF NEWPORT ORDAINS AS FOLLOWS:

Section 1. The City Council amends the Newport Municipal Code by repealing and replacing Chapter 11.10 to read as follows:

Chapter 11.10 FIRE CODE

- 11.10.005 **Adoption of Fire Code.** The 2014 Oregon Fire Code is adopted as the City of Newport Fire Code.
- 11.10.010 **Enforcement, Remedies, and Procedures Cumulative.** The City Fire Marshal shall have primary responsibility for enforcing the City of Newport Fire Code. Violation of any provision of the City of Newport Fire Code is a civil infraction and violation of this Code. In addition to the civil infraction procedure and civil penalty, the city may enforce this Code by any other legally available procedure, and the procedures and remedies provided by this section are in addition to and not instead of any other procedure or remedy legally available.

Section 2. All previously adopted fire codes are repealed when the adoption of the 2014 Oregon Fire Code is effective. However, any violation of previously applicable fire codes remains a violation and the prior code may be relied on in any enforcement process as to actions that occurred while the prior code was in effect.

Adopted by the Newport City Council on August 18, 2014.

Signed by the Council President on August 19, 2014.

Laura Swanson, Council President

ATTEST:

Margaret M. Hawker, City Recorder

APPROVED BY LEGAL COUNSEL:



CITY MANAGER'S REPORT AND RECOMMENDATIONS

Agenda Item:

Public Hearing and Possible Action Authorizing the Design, Construction, and Acquisition of a Community Electronic Message Sign by the City of Newport to be Located on the NW Corner of US 101 and Hurbert Street as Proposed by City Center Newport Association.

Background:

At the July 21, 2014, City Council meeting a presentation was made by the City Center Newport Association regarding proceeding with an electronic message sign that would be located at the NW corner of US 101 and Hurbert Street. A public hearing was scheduled for August 18, 2014, prior to making a decision as to going forward with this project or not.

On behalf of the City Center Newport Association, Frank Geltner and Zach Pool have been working on this project as an alternative to a park development at this location that was designed and bid but deemed too expensive to move forward with after bids were taken. The City Council had appropriated \$100,000 for this purpose. Of the original \$100,000, \$90,000 is still reserved for a city center project.

The City Center Newport Association has been spearheading an effort to create a community message sign at this location that would not only benefit the city center but other venues within the city as well. A presentation was made by the City Center Newport Association representatives to the City Council at a November 18, 2013, City Council meeting. During this meeting there was a number of questions raised as to the community acceptance of the sign, operations and financial sustainability of this project after it is constructed. Furthermore, there were questions regarding the overall design of the sign. I am including a communication from Frank Geltner of the City Center Newport Association, which included a financial analyses of the potential revenue that could be generated to help maintain the project. While there have been initial discussions with the Newport Greater Newport Chamber of Commerce about being the administrator for dealing with the signage operational issues there has not been any final determinations made about administration of the sign and message. In reviewing the November 18, 2013, minutes which are attached as supporting material, there were some discussion as far as whether this project should go forward or not and if the decision is made to go forward, that the committee will need city support to proceed with final design and procurement processes to make this sign a reality. There are a number of issues that the City Center group would like to explore with the city if the sign is permitted, including the timing restrictions on the routing of messages on this type of sign.

Please note that this project is not a private project but would be conducted as a city project on city property with the Room Tax funds that have been reserved for a city

center project. If the project were supported it would then be necessary to develop a specific operations plan that would provide revenue to help sustain the operation of the message sign.

In my previous community the city operated two community message signs. The technology has improved dramatically to reduce maintenance and energy costs for operating these type of signs. I know they fare well in subzero temperatures but I have not had experience with these signs in a corrosive salt air environment. They can play a role in informing the community of various events and activities, however they are limitations on in the amount of time a message is displayed, practically if you get several messages on the display which creates practical limits on the number of messages that can be displayed at one time regardless of the length of time each individual message is displayed.

Following the public hearing, if the Council is interested in going forward with this project, I would recommend as a preliminary step that the City Center group develop some sort of draft proposal with the Greater Newport Chamber of Commerce outlining the role that the chamber would play in managing the messages and sign components once the structure is in place. Secondly, if this concept is supported by the Council, I would suggest that the Council request a report and recommendations on the time frame for implementing this project. Please note that this project would need to be fit in with the current schedule of projects underway.

Recommended Action:

I recommend the Mayor conduct a public hearing on the benefit of proceeding with the construction of a community electronic message sign to be located on the NW corner of US 101 and Hurbert Street in the City Center.

Following public hearing and considering any comments made that the City Council consider the following motion:

I move that the City Council support the concept of a city owned message sign and that the city administration provide a report to the City Council which will include a time table for the design, acquisition and placement of an electronic message sign at the NW corner of US 101 and Hurbert Street by October 6, 2014, City Council meeting.

Fiscal Effects:

Please note that the \$90,000 has been reserved for this project. If funds are not used for the sign project they could be redirected for improvements to the center city that would be consistent with the Room Tax Fund or these funds could be utilized for other purposes within the city but still consistent with Room tax Fund purposes.

Alternatives:

Do not proceed with a city owned message sign at Hurbert and 101 or as suggested by City Council.

CITY MANAGER'S REPORT AND RECOMMENDATIONS



Agenda Item:

From the Destination Newport Committee - Recommendation for Awarding a Tourism Marketing Grant to the OCCC Foundation & Oregon Coast Aquarium for the Promotion of the 2014 Oyster Cloyster

Background:

The City Council has provided \$25,000 in Room Tax Funds for the purpose of marketing various events outside of the immediate Lincoln County area. Organizations can request funding for up to three years to promote these types of events. This is the first year that a grant would be provided for this event. The Oyster Cloyster is a fundraiser for the Oregon Coast Aquarium and the Oregon Coast Community College. This is a culinary event featuring local and regional chefs who present their unique oyster dishes for guest to sample while strolling the Aquarium grounds. The event planners would like to expand the marketing efforts to the Willamette Valley to target the foodie demographic in the Portland, Salem, Corvallis and Eugene areas. The Destination Newport Committee reviewed this request and is recommending the City Council consider providing a grant of \$5,000 for this purpose.

Recommended Action:

I recommend the City Council approve the following motion:

I move that the Tourism Marketing Grant for Marketing the 2014 Oyster Cloyster in the amount of \$5,000 be approved for the OCCC Foundation and Oregon Coast Aquarium.

Fiscal Effects:

\$25,000 had been appropriated without any expenditures from these funds for the 2014-15 fiscal year prior to tonight's meeting.

Alternatives:

None recommended.

Respectfully Submitted,

Spencer R. Nebel, City Manager



Agenda Item #

Meeting Date

8-18-14

CITY COUNCIL AGENDA ITEM SUMMARY
City Of Newport, Oregon

Issue/Agenda Title: Consideration of Award for the Tourism Marketing Grant for Oyster Cloyster

Prepared By : C. Breves Dept Head Approval: _____ City Mgr Approval: _____

Issue Before the Council: The issue before Council is consideration of a Tourism Marketing Grant application from the Oyster Cloyster, in the amount of \$5,000, for assistance with extending marketing for the 2014 event.

Staff Recommendation: This is entirely a City Council decision, although the current procedure requires a review and recommendation by the Destination Newport Committee.

Proposed Motion: I move to approve the Tourism Marketing Grant Fund application, submitted by the OCCC Foundation & Oregon Coast Aquarium, for assistance with marketing and advertising expansion for the 2014 Oyster Cloyster, in the amount of \$5,000.

Key Facts and Information Summary: The OCCC Foundation & Oregon Coast Aquarium requested \$5,000 to assist with marketing efforts and event promotion for the 2014 Oyster Cloyster. The Oyster Cloyster is a fundraiser for the Oregon Coast Aquarium and Oregon Coast Community College. The Oyster Cloyster is a culinary event featuring local and regional chefs who present their unique oyster dishes for guest to sample while strolling the Aquarium grounds. Beverages are provided by craft breweries and some of the region's foremost wineries. The Oyster Cloyster would like to expand their marketing efforts to Willamette Valley. The Oyster Cloyster will target the ever growing foodie demographic in the Portland, Salem, Corvallis and Eugene. The Destination Newport Committee discussed the request and is forwarding a positive recommendation.

Other Alternatives Considered: None

City Council Goals: The request does not address a specific City Council goal.

Attachment List: Tourism Marketing Grant Fund Application submitted by the OCCC Foundation & Oregon Coast Aquarium.

Fiscal Notes: To date no events have been funded using these monies. If approved, this funding would come from TRT monies that have been set aside for this use. If this request is approved, the remaining balance would be \$15,000.

General Information:

Name of Applicant Organization: OCCC Foundation & Oregon Coast Aquarium

Mailing Address: 400 SE College Way

City, State, Zip: Newport, OR 97366

Telephone: 541-867-8531

Fax: 541-265-3820

E-Mail Address: bryn.huntpalmer@occc.cc.or.us

Principal Contact (If different from Applicant): Bryn Huntpalmer

Mailing Address (If different from Applicant): _____

City, State, Zip: _____

Telephone: _____

Fax: _____

E-Mail Address: _____

Date(s) and Time(s) of Event: 11/1/2014

Description of Event or Activity*: This fundraiser for the Oregon Coast Aquarium and Oregon Coast Community College

is a culinary event featuring local and regional chefs who present their unique oyster dishes for guests to sample while

strolling the Aquarium grounds. Beverages are also provided by craft breweries and some of the region's foremost wineries. Entertainment

and Aquarium behind-the-scenes encounters provide guests with memorable interactive experiences befitting this unique coastal event.

Nature of Event or Activity:

Single Day Event X

Multi-night local lodging event _____ days

Extended calendar event. _____ days

Amount of Funding Requested: \$ 5,000

Total Event/Activity Budget: \$ 26,500

What specific marketing expenditures will the granted funds be used for?*

While, 2013 earned media and grassroots marketing efforts were highly successful in 2013, this grant would allow us to

extend marketing to Willamette Valley for 2014. By showcasing Oyster Cloyster as the premier oyster food competition in the Pacific Northwest

we will target the ever growing foodie demographic in Portland, Salem, Corvallis and Eugene. First we will target Portland with banner

ad space in the Portland Monthly Magazine's interactive bi-monthly Tripster email. Tripster is targeted to individuals who have opted in

for travel and getaway news through Portland Monthly. It has a subscriber base of 22K and an open rate of 35% with a click rate of 37%.

The Aquarium will leverage its buying history and non-profit status to command a discounted rate. Next we will use 1859 Magazine to target affluent,

informed, active and highly educated demographic residents of Oregon. We will place several online banner ad buys and again leverage

the Aquarium's longtime advertising relationship and non-profit status to earn editorial space in the September & October issues.

List event/activity supporters or partners*: _____

Past supporters include: Wilder, Georgia Pacific, Pacific Seafood, _____

Rogue Brewery, SunWest Honda _____

Applicant/organization must be a non-profit corporation. **Attach a copy of the IRS determination letter.**

Has applicant received funding in prior years from the city for this event/activity? If yes, when:

no _____

Projected Event/Activity Impact:

Describe how the event/activity will affect the Newport economy (e.g., room nights, number of visitors/attendees, restaurant sales, retail sales, etc.): Although the Oyster Cloyster

is in its 14th year, 2014 marks year two of the partnership between OCCC and the Aquarium. With the Aquarium's marketing help, the 2013

Oyster Cloyster saw a major increase in attendance with over 300 guests. By extending the marketing into the

Willamette Valley for 2014 the Oregon Coast Community College Foundation and Oregon Coast Aquarium

have a goal of 500 attendees for the 2014 Oyster Cloyster. By seeking this additional attendance through

non-Lincoln County residents, the 2014 Oyster Cloyster is projecting close to 100 room nights at local Newport

hotels. The Oyster Cloyster is an evening event that does involve alcohol so most non-residents stay the night. The event is

on a Saturday and will in turn contribute to restaurant sales before the event as well as Sunday prior to travelers leaving town.

The long-standing event is also a great signature attraction to bring visitors to Newport during the off season,

introduce them to the area (and to the amazing cuisine), and entice them to return for visits throughout the year.

Financial Reporting Requirements:

Please provide a proposed budget of revenues and expenditures in a form similar to the following:

PROPOSED REVENUES

Source #1	<u>Ticket sales</u>	Amount	<u>\$ 37,500</u>
Source #2	<u>Wineries</u>	Amount	<u>\$ 1,750</u>
Source #3	<u>Sponsorships</u>	Amount	<u>\$ 20,000</u>
Source #4	<u>City of Newport</u>	Amount	<u>\$ 5,000</u>
Source #5	<u>Donated Advertising</u>	Amount	<u>\$ 12,000</u>
TOTAL REVENUES			<u>\$ 76,250</u>

PROPOSED EXPENDITURES

Use #1	<u>Paper products</u>	Amount	<u>\$ 500</u>
Use #2	<u>Printing</u>	Amount	<u>\$ 1,000</u>
Use #3	<u>Wine glasses</u>	Amount	<u>\$ 800</u>
Use #4	<u>Misc supplies</u>	Amount	<u>\$ 500</u>
Use #5	<u>Chef Awards</u>	Amount	<u>\$ 300</u>
Use #6	<u>Postage</u>	Amount	<u>\$ 2,000</u>
Use #7	<u>Advertising</u>	Amount	<u>\$ 21,400</u>
Use #8	<u></u>	Amount	<u>\$</u>
Use #9	<u></u>	Amount	<u>\$</u>
Use #10	<u></u>	Amount	<u>\$</u>
TOTAL EXPENDITURES			<u>\$ 26,500</u>

REVENUES MINUS EXPENDITURES \$ 49,750

As a final condition to accepting granted funds, the applicant agrees to provide the City of Newport with a final report summarizing result of the event/activity (e.g., attendance, local and regional publicity, lodging occupancy, closing revenue and expenditure report, etc.), with a detailed and verified accounting.

5/29/14
Date

Bryn Huntpalmer
Applicant Signature
Bryn Huntpalmer
Applicant Printed Name



CITY OF NEWPORT
169 SW Coast Highway
Newport, Oregon 97365
541.574.0603
c.breves@newportoregon.gov

TOURISM MARKETING GRANT FUND APPLICATION

The purpose of the grant program is to promote tourism and increase stays in lodging establishments within the city limits of Newport. Funding for events/activities scheduled for the off and/or shoulder seasons, September 15 through June 15 will be given priority. Funding may not be provided for well established events/activities, although funding may be provided for expansion or changes of existing events if the city determines the changes will increase tourism.

Applications for grant funds must be submitted two months prior to an event to allow sufficient time for review by the Destination Newport Committee and the City Council at their regularly scheduled meetings.

The regular Destination Newport Committee meetings are held on the third Thursday of the month. Applications will be reviewed by the Destination Newport Committee and forwarded to the City Council with a recommendation for approval or denial. Applications must be submitted to the City Manager's Office.

The city reserves the right to grant all or a portion of a request; deny a request; or recommend no award regardless of availability of funds.

Please read the rules instructions on page 5. prior to completion.

INSTRUCTIONS AND PROCEDURES FOR EVENT/ACTIVITY GRANT APPLICATION

1. Complete the prepared application for event/activity grant funding. The forms can be obtained from the city manager's office at the Newport City Hall or on the city website at www.newportoregon.gov. Use only the city form when preparing an application.
2. Applications for grant funds should follow this timeline:

Applications must be submitted a minimum of two months prior to the scheduled event. The Destination Newport Committee will consider applications at their regular monthly meetings. Applications for events that have already occurred will not be accepted.
3. Applications for funding will be reviewed by the Destination Newport Committee and recommendations will be forwarded to the City Council for final approval. Incomplete applications will be returned to applicant for correction, and may not be considered if the delay creates a late application.
4. The applicant, or applicant's representative, may attend the Destination Newport Committee meeting at which the application will be considered. No applicant presentation is required, but applicant should be prepared to respond to questions.
5. Applications submitted after an event/activity occurs will be rejected.
6. Applicants are required to provide the city with a final report summarizing the results of the event/activity (e.g., attendance, local and regional publicity, lodging occupancy resulting from the event, closing revenue and expenditure report, etc.). This information must be submitted to the city manager's office no later than one month from the final day of the event/activity. Samples of all marketing materials and acknowledgements should be attached to this report. Failure to provide a final report to city shall jeopardize future applications
7. The purpose of the grant program is to promote tourism and increase stays in lodging establishments within the city limits of Newport. Funding for events/activities scheduled for the off and/or shoulder seasons, September 15 through June 15 will be given priority. Funding may not be provided for well established events/activities, although funding may be provided for expansion or changes of existing events if the city determines the changes will increase tourism.
8. Preference will be given to events/activities that have taken place for three years or less, or new components/improvements to existing events/activities.

9. Events/activities may not be considered for funding more than three times. Applicant should plan for other funding sources beyond the third request.
10. Funding is contingent upon available monies, and the process is competitive. There is no guarantee that funding, if granted, will be available for an event/activity in subsequent years.
11. Acknowledgement must be given to the City of Newport in all promotional materials, and programs associated with the event/activity.

CITY MANAGER'S REPORT AND RECOMMENDATION



Agenda Item:

From the Destination Newport Committee - Recommendation for Awarding a Tourism Marketing Grant to the Newport Symphony for the Promotion of the 2014-15 Concert Season

Background:

The Newport Symphony Orchestra is requesting a second round of funding to promote the expanded season for the Newport Symphony which was initiated during the 2013-14 season. If approved this will be the second year that grant funds were provided to promote the concert series. The Destination Newport Committee discussed the request and is recommending the City Council consider granting a grant of \$5,000 for this purpose.

Recommended Action:

I recommend the City Council approve the following motion:

I move that the City Council approve the Tourism Marketing Grant for a second year as submitted by the Newport Symphony Orchestra for assistance with marketing and advertising for the continuation of the expanded season as was initiated last year in the amount of \$5,000.

Fiscal Effects:

Prior to tonight's meeting the entire \$25,000 is available for these grants.

Alternatives:

None recommended.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "S. R. Nebel".

Spencer R. Nebel
City Manager



Agenda Item #

Meeting Date

8-18-14

CITY COUNCIL AGENDA ITEM SUMMARY
City Of Newport, Oregon

Issue/Agenda Title: Consideration of Award for the Tourism Marketing Grant for Newport Symphony Orchestra

Prepared By : C. Breves Dept Head Approval: _____ City Mgr Approval: _____

Issue Before the Council: The issue before Council is consideration of a Tourism Marketing Grant application from the Newport Symphony Orchestra, in the amount of \$5,000, for assistance with marketing for the 2014-15 season expansion.

Staff Recommendation: This is entirely a City Council decision, although the current procedure requires a review and recommendation by the Destination Newport Committee.

Proposed Motion: I move to approve the Tourism Marketing Grant Fund application, submitted by the Newport Symphony Orchestra, for assistance with marketing and advertising for the expansion of the 2013 -14 season, in the amount of \$5,000.

Key Facts and Information Summary: The Newport Symphony Orchestra requested \$5,000 to assist with marketing efforts and event promotion for the 2014-15 season. The symphony would like to expand their season by adding matinees. The Newport Symphony will partner with local hotels and B&B, who commit to cross-promotion, to provide symphony getaways. The Destination Newport Committee discussed the request and is forwarding a positive recommendation.

Other Alternatives Considered: None

City Council Goals: The request does not address a specific City Council goal.

Attachment List: Tourism Marketing Grant Fund Application submitted by the Newport Symphony Orchestra.

Fiscal Notes: To date no events have been funded using these monies. If approved, this funding would come from TRT monies that have been set aside for this use. If this request is approved, the remaining balance would be \$20,000.

General Information:

Name of Applicant Organization: Newport Symphony

Mailing Address: PO Box 1617

City, State, Zip: Newport 97365

Telephone: _____ Fax: _____

E-Mail Address: info@newportsymphony.org

Principal Contact (If different from Applicant): Glen Edwards

Mailing Address (If different from Applicant): _____

City, State, Zip: _____

Telephone: _____ Fax: _____

E-Mail Address: _____

Date(s) and Time(s) of Event: Season running from September to March

Description of Event or Activity*: Symphony concerts partnered with Newport hotels to offer promotional tickets and fund increased state wide marketing.

Nature of Event or Activity:

Single Day Event _____

Multi-night local lodging event _____ days

Extended calendar event. _____ days

Amount of Funding Requested: \$ 5,000

Total Event/Activity Budget: \$ 175,000 Concert Expenses + \$69,000 operation expenses

What specific marketing expenditures will the granted funds be used for?*

\$1,000 Marketing Funds for Prime Martini December 16+17 @ the DAG.

\$1,000 All Classical Ad Buy that reaches all major markets

\$3,000 Underwrite 100 seats for hotel promotion.

List event/activity supporters or partners*: OCCA, Oregon Community Foundation, Miller Foundation, Meyer Memorial Trust, David Ogden Stiers, Annual Medical Care, 80-100 donors per year. Concert attendance is up 50% this year with the addition of Sunday matinees.

Applicant/organization must be a non-profit corporation. Attach a copy of the IRS determination letter.

Has applicant received funding in prior years from the city for this event/activity? If yes, when:

Yes, past season for a similar request.

Projected Event/Activity Impact:

Describe how the event/activity will affect the Newport economy (e.g., room nights, number of visitors/attendees, restaurant sales, retail sales, etc.):

We anticipate this will be Pink Martin's only December performance this year which will enhance the draw to Newport in December.

In the first year of the partnership we have used 16 to 20 seats per concert by request of hotel partners. Eugene + Corvallis have been the top requesters to date.

We are adding a fifth full concert this season to be conducted by David Ogden Stiers, which is always a big draw for the NSD.

Financial Reporting Requirements:

Please provide a proposed budget of revenues and expenditures in a form similar to the following:

PROPOSED REVENUES

Source #1	<u>Ticket Sales</u>	Amount	<u>\$100,000</u>
Source #2	<u>Donors</u>	Amount	<u>\$80,000</u>
Source #3	<u>Grants/Foundation</u>	Amount	<u>\$25,000</u>
Source #4	<u>Program Ad/Business</u>	Amount	<u>\$25,000</u>
Source #5		Amount	<u>\$</u>
TOTAL REVENUES			<u>\$240,000</u>

PROPOSED EXPENDITURES

Use #1	<u>Orchestra Concerts</u>	Amount	<u>\$160,000</u>
Use #2	<u>Pink Martini Event</u>	Amount	<u>\$20,000</u>
Use #3	<u>Operating</u>	Amount	<u>\$60,000</u>
Use #4		Amount	<u>\$</u>
Use #5		Amount	<u>\$</u>
Use #6		Amount	<u>\$</u>
Use #7		Amount	<u>\$</u>
Use #8		Amount	<u>\$</u>
Use #9		Amount	<u>\$</u>
Use #10		Amount	<u>\$</u>
TOTAL EXPENDITURES			<u>\$240,000</u>

REVENUES MINUS EXPENDITURES \$ -0-

As a final condition to accepting granted funds, the applicant agrees to provide the City of Newport with a final report summarizing result of the event/activity (e.g., attendance, local and regional publicity, lodging occupancy, closing revenue and expenditure report, etc.), with a detailed and verified accounting.

3-17-2014
Date

[Signature]
Applicant Signature
Glenn Edwards
Applicant Printed Name



CITY OF NEWPORT
169 SW Coast Highway
Newport, Oregon 97365
541.574.0603
c.breves@newportoregon.gov

TOURISM MARKETING GRANT FUND APPLICATION

The purpose of the grant program is to promote tourism and increase stays in lodging establishments within the city limits of Newport. Funding for events/activities scheduled for the off and/or shoulder seasons, September 15 through June 15 will be given priority. Funding may not be provided for well established events/activities, although funding may be provided for expansion or changes of existing events if the city determines the changes will increase tourism.

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5. Applications submitted after an event/activity occurs will be rejected.
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10. Funding is contingent upon available monies, and the process is competitive. There is no guarantee that funding, if granted, will be available for an event/activity in subsequent years.
11. Acknowledgement must be given to the City of Newport in all promotional materials, and programs associated with the event/activity.



CITY MANAGER'S REPORT AND RECOMMENDATIONS

Agenda Item:

From the Oregon Coast Council for the Arts - Request to Initiate a Zoning Code Change to Allow for Electronic Signs in a Public Zone

Background:

As you are aware the Oregon Coast Council for the Arts has been involved in a multiphase capital campaign to enhance the Newport Performing Arts Center. OCCA is currently beginning the next phase of improvements to the Performing Arts Center which addresses the need for adequate signage for this city facility. Currently the Newport Performing Arts Center utilizes 4 X 8 sheets of plywood with vinyl or hand painted images on those signs. OCCA is interested in the installation of electronic versions of the signs that are currently used at the corner of Olive and Coast Street. The proposed signs would have the same general look but would be lighted and created electronically and would allow multiple events to cycle through the panels to better reflect the large variety and number of performances in any given month at the Performing Arts Center.

Since this is a city facility, OCCA is asking for the city to review this specific request and if the change is supported, to have the City Council initiate a zoning code change, if necessary, to allow for electronic sign in a public zone.

There have been discussions about the suitability of electronic signage in the City of Newport. The Planning Commission spent an extensive amount of time exploring this issue prior to Walgreen's building their store in Newport. Prior to initiation of this report, it would be important for the Council, as the property owner, to determine whether this is a modification to the grounds of the PAC is supported. If it is, the city staff can prepare a report on the regulatory issues that would need to be addressed.

Recommended Action:

I recommend the City Council approve the following motion:

I move that the City Council support the concept of the signage upgrade for the Performing Arts Center and direct staff to prepare a report with recommendation for the September 2, 2014, City Council meeting on how to proceed with any zoning changes, if necessary.

Fiscal Effects:

None by requesting the report.

Alternatives:

The Council could opt not to support the use of electronic signage at the Performing Arts Center, the Council could direct a communication to the OCCA indicating they do not support this change or as suggested by the City Council.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "S. R. Nebel". The signature is fluid and cursive, with the first name "Spencer" and last name "Nebel" clearly distinguishable.

Spencer R. Nebel, City Manager

Attachments:

Comment



A CAPITAL CAMPAIGN TO EXPAND & ENHANCE THE NEWPORT PERFORMING ARTS CENTER

CAPITAL CAMPAIGN CMTE.
MARK MCCONNELL, CHAIR*
WAYNE BELMONT*
ITCHUNG CHEUNG*
MICHAEL DALTON
CATHLEEN DONNELLAN*
KAY MOXNESS*
SARAH GAYLE PLOURDE*
FRANK GELTNER
CATHERINE RICKBONE
LAVERN WEBER*
SANDI WILLIAMS*
KHLO BRATENG
RICH FOSTER
* OCCA BOARD

HONORARY CO-CHAIRS
JOHN BAKER
BILL AND JOANN BARTON
JOHN CLARK
MICHAEL DALTON
DON DAVIS
FRANK GELTNER
JODY HANNAH
DOUG HUNT
TERI JERNIGAN
BURT & BOBBIE LIPPMAN
CINDY MCCONNELL
DAVID MILLER
NANCY MITTLEMAN
ROY ROBERTSON
SANDRA ROUMAGOUX
PAM SIMPSON
VICKIE STEEN
DAVID OGDEN STIERS
SUSAN WOODRUFF
SIAN ZANDER

PAC VISIONING GROUP
JOHN BAKER
JOHN CLARK
MICHAEL DALTON
JAN EASTMAN
FRANK GELTNER
MARK MCCONNELL
CATHERINE RICKBONE

July 14, 2014

City Council of Newport,

Request: Initiate a Zoning Code Change to allow for electronic signs in a Public Zone. Reference is 10.10.100 / Section E. Determine if the signs at the Performing Arts Center are Exempt Signs per 10.10.065, which exempts signs erected or maintained by or on behalf of local government.

We are beginning our next phases of improvements at the Performing Arts Center. One of the issues that came forward early on in our planning and development of a project list, was the need for adequate signage on the site. In order to serve the current programming, and to provide for more capacity in the future with two theatres operating simultaneously, we have developed a plan for an electronic version of the signs we currently use on the corner of Olive and Coast Street. This style of sign will have the same "look", but will allow us to electronically generate the message for display. The electronic version will also allow for less cost and labor in creating the signs, eliminate changing the sign boards manually, and will generate a significant change in our marketing strategies. In addition, an electronic version will allow multiple events to cycle through the panels and better reflect the large variety and number of performances in any given month. Attached you will find two graphics, one of the current signage and one of the proposed version.

Since the City owns the building and has a vested interest in its success, we are asking for your help in this matter.

Sincerely,

Mark McConnell, Capital Campaign Chair



OREGON COAST
COUNCIL FOR THE ARTS

*Oregon Coast Council for the Arts promotes and provides
high-caliber arts experiences on the Oregon coast.*

P.O. Box 1315, Newport, OR 97365 • 541-265-ARTS [2787] • www.coastarts.org

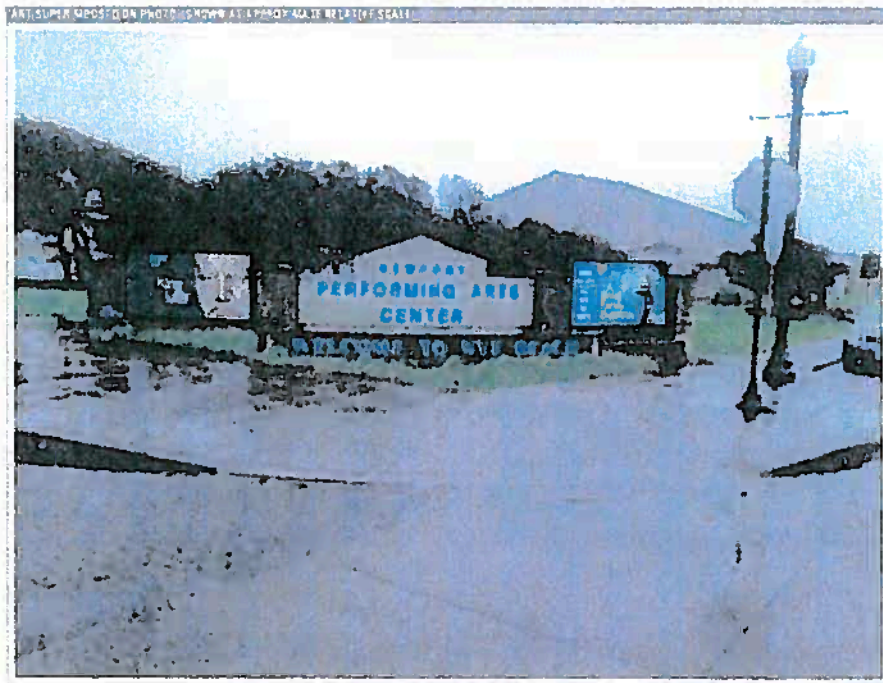


This is a photo of our current signage process—vinyl or hand painted on a 4'x8' sheet of plywood.



CONCISE ONE LINE SCOPE OF WORK
QUANTITY 1 MANUFACTURE & INSTALL

SCALE: 1/4" = 1'-0"



Proposed Electronic "Look"

CITY MANAGER'S REPORT AND RECOMMENDATIONS



Agenda Item:

Authorization to Submit a Request for an Oregon Coastal Management Program Technical Assistance Grant to Fund Development Strategies for Promoting the Construction of Student Housing

Background:

Oregon State University has announced its desire to construct a 100,000 square foot research education building as part of its initiative to expand the Hatfield Marine Science Center campus to accommodate 500 additional students and associated faculty. To date Oregon State University is projecting the cost for this facility at \$50 million, with a \$15 million endowment for operational expenses for the program. Approximately \$25 million has been committed to date with a request going to the State Legislature for funding in 2015. In order to hit the ground running, County Commissioner Terry Thompson has suggested that the county and city split \$15,000 housing study that would serve several purposes. The housing study will demonstrate that the city and county are willing to engage in strategies in order to address any impacts local housing if this campus is located within the City of Newport. Secondly, the study could specifically update the city's building lands inventory, review strategies currently being pursued by other college towns, and determine options that could be employed in Newport to create incentives for private investment to construct rental units. As part of this project, a consultant would be retained and a technical advisory committee formed with the objective of creating a preliminary report in early November with a final draft occurring by the end of January 2015. The early report would be utilized as part of the effort to assist OSU in demonstrating that the region is preparing itself to address the impact of these additional housing needs affiliated with this residential campus.

Lincoln County is prepared to contribute \$7,500 to this project if the city can identify additional funding contribution. It is our intent to use this grant to match the contribution. If there is a delay in receiving authorization to go forward with this grant, staff has identified \$7,500 in budgeted funds that could be used in its place.

Recommended Action:

I recommend that the City Council approve the following motion:

I move that the City Council authorize in a joint city/county collaborative effort to conduct a housing study on the impact that 500 additional students and associated faculty would have on the housing markets in the City of Newport and Lincoln County.

I further recommend that the City Council approve a second motion:

I move that the City Council authorize staff to submit an application to the Department of Land Conservation and Development for funding in the amount of \$7,500 to evaluate

impacts on housing in the region if OSU builds a campus for 500 students in Newport and specifically update the Newport Comprehensive Plan related to this matter.

Fiscal Effects:

Lincoln County has agreed to contribute \$7,500 for this undertaking. Furthermore, there is sufficient appropriated funding for consulting services in Community Development budget in the event the grant is not funded or the timing of the grant does not meet our needs to this project. If additional funding were need to complete this project, these funds could be used to further supplement this project if needed.

Alternatives:

Do not conduct the study at this time or as suggested by City Council.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "S. R. Nebel", is written over a light blue circular stamp.

Spencer R. Nebel
City Manager



Agenda Item #

Meeting Date

August 18, 2014

CITY COUNCIL AGENDA ITEM SUMMARY

City of Newport, Oregon

Issue/Agenda Title Authorization to submit a request for an Oregon Coastal Management Program technical assistance grant for funding to develop strategies for promoting the construction of student housing

Prepared By: Derrick Tokos Dept Head Approval: DT City Mgr Approval: _____

ISSUE BEFORE THE COUNCIL: Consideration of whether or not the Community Development Department should submit an application to the Department of Land Conservation and Development for match funds in the amount of \$7,500 to fund the preparation of targeted updates to the Newport Comprehensive Plan related to the provision of student housing. The work would be completed in advance of Oregon State University's planned expansion of the Hatfield Marine Science Center.

STAFF RECOMMENDATION: Staff recommends the Council authorize submittal of the grant application.

PROPOSED MOTION: I move that the Council authorize staff to submit an application to the Department of Land Conservation and Development for funding in the amount of \$7,500 to offset a portion of the cost of preparing targeted updates to the Newport Comprehensive Plan related to the provision of student housing.

KEY FACTS AND INFORMATION SUMMARY: Oregon State University is constructing a 100,000 square foot research education building as part of its initiative to expand the Hatfield Marine Science Center campus to accommodate 500 additional students and associated faculty. The project is estimated to cost approximately \$50 million, and the University has secured about half of the needed funding. Construction is anticipated to begin in 2017 and will be completed in 2018.

Current vacancy rates for rental units in the City of Newport fluctuate between two and three percent. The City has a deficit of nearly 500 affordable housing units for households that earned less than \$25,000 and more than one-third of its households cannot afford a two-bedroom apartment at HUD's fair market rent level of \$759 (for the 2005-2009 reporting period).

The City of Newport recognizes that it needs to get ahead of this planned expansion by working collaboratively with Oregon State University, Lincoln County, rental housing managers, developers, and other stakeholders to identify properties that are well suited for construction of rental units, and to identify strategies for attracting private investment to expand its supply of such units so as to avoid further market compression, which would likely price out a significant number of low to moderate income households. This could adversely impact other economic sectors in the community (e.g. retail, tourism, fish processing, etc.) through displacement of a workforce that would otherwise be available to those employers.

Newport's buildable lands inventory was last updated in 2011, so only a targeted update is needed to demonstrate that an adequate land supply exists and to identify sites most suitable for student housing. Much of the work will be focused on researching strategies that are currently being pursued by other college towns to identify a range of options that can be employed in Newport to create incentives for private investment to construct the rental units.

Specifically, the work will include a review of the City's buildable lands inventory and existing housing policies; identification of lands suitable for student housing; analysis of the impact additional students and faculty will have on the existing rental inventory; research into public/private partnerships and incentives offered in college towns to address housing needs; and preparation of policies and strategies that can be pursued in Newport to promote the realization of additional student housing.

The Department of Land Conservation and Development (DLCD) has indicated that Technical Assistance Grant funds are available from their FY 12/13 authorization. The funds are available immediately and must be expended no later than June 30, 2015. The estimated cost of the project is \$15,000 with half of the funding coming from the City of Newport and Lincoln County. This will satisfy DLCD's 1:1 match requirement.

The City is prepared to initiate the work as soon as grant funding is received. A consultant will be retained and technical advisory committee formed with the objective of having a draft report complete by the end of November. Adoption of a final draft will occur by the end of January 2015.

OTHER ALTERNATIVES CONSIDERED: Not applying for the grant.

CITY COUNCIL GOALS: There are no specific Council goals applicable to this request.

ATTACHMENT LIST:

- Draft Technical Assistance Grant Application

FISCAL NOTES: Lincoln County is prepared to dedicate \$7,500 to this project if the City will match its contribution. Staff has identified \$7,500 in budgeted funds in the event it is unsuccessful in securing the grant or in the event that the timing of the grant funding will not allow for a draft report to be prepared by the end of November.

**2014-2015
APPLICATION
OREGON COASTAL MANAGEMENT PROGRAM
TECHNICAL ASSISTANCE/PRIORITY PROJECT GRANT**



Please type or print clearly

Date: August 13, 2014

Applicant: City of Newport

Address: 169 SW Coast Hwy **City:** Newport **Zip:** 97365

Phone: 541-574-0626 **Fax:** 541-574-0644

Contact Person, Title: Derrick I. Tokos, AICP

E-mail address(es): d.tokos@newportoregon.gov

Amount Requested from DLCD: \$ 7,500 **Grantee Share** 7,500

Project Title: Development of Strategies for Promoting Development of Student Housing
BRIEF description of the project, 50 words or so. Be sure to state the expected results

Perform targeted updates to the Newport Comprehensive Plan to confirm the availability of land for construction of student housing, and to identify strategies for attracting private investment to construct student housing in advance of Oregon State University's planned expansion of the Hatfield Marine Science Center campus.

Keywords

(Check those that apply to the project)

<input type="checkbox"/> Information technology	<input type="checkbox"/> Coastal hazards	<input type="checkbox"/> Stormwater management
<input checked="" type="checkbox"/> Economic development	<input type="checkbox"/> Wetland & riparian resources	<input checked="" type="checkbox"/> Resource and land inventories
<input type="checkbox"/> Estuarine resources	<input checked="" type="checkbox"/> Marine resources	<input type="checkbox"/> Special Area Planning
<input type="checkbox"/> Transportation	<input checked="" type="checkbox"/> Public involvement	<input type="checkbox"/> Capital improvements planning

SUBMITTAL

Please submit all application information by US Mail, FAX, or e-mail to:

Diana Evans, OCMP Grants Coordinator diana.evans@state.or.us FAX 503-378-6033

Department of Land Conservation and Development

635 Capitol St. NE Suite 150 Salem OR 97301

Project Narrative

Please provide the information requested under each item. Although extensive, detailed information is not necessary, you need to provide enough information to help OCMP understand the project and make grant funding decisions.

1. Goals and Objectives:

State the goal(s) or overall purpose of the project. What is the problem, need, or opportunity that the project will address? Describe planning, technical, or information objectives that will help achieve the goal(s).

Oregon State University is constructing a 100,000 square foot research education building as part of its initiative to expand the Hatfield Marine Science Center campus to accommodate 500 additional students and associated faculty. The project is estimated to cost approximately \$50 million, and the University has secured about half of the needed funding. Construction is anticipated to begin in 2017 and will be completed in 2018.

Current vacancy rates for rental units in the City of Newport fluctuate between two and three percent. The City has a deficit of nearly 500 affordable housing units for households that earned less than \$25,000 and more than one-third of its households could not afford a two-bedroom apartment at HUD's fair market rent level of \$759 (for the 2005-2009 reporting period).

The City of Newport recognizes that it needs to get ahead of this planned expansion by working collaboratively with Oregon State University, Lincoln County, rental housing managers, developers, and other stakeholders to identify properties that are well suited for construction of rental units, and to identify strategies for attracting private investment to expand its supply of such units so as to avoid further market compression, which would likely price out a significant number of low to moderate income households. This could adversely impact other economic sectors in the community (e.g. retail, tourism, fish processing, etc.) through displacement of a workforce that would otherwise be available to those employers.

Newport's buildable lands inventory was last updated in 2011, so only a targeted update is needed to demonstrate that an adequate land supply exists and to identify sites most suitable for student housing. Much of the work will be focused on researching strategies that are currently being pursued by other college towns to identify a range of options that can be employed in Newport to create incentives for private investment to construct the rental units.

2. Scope of Work, Products, and Budget (attach additional pages if necessary):

a. Describe the scope of work to be performed. If the project is in phases, please note.

City would retain a consultant to assist it in updating the Housing Element of its Comprehensive Plan. The scope of work would include a review of the City's buildable lands inventory and existing housing policies; identification of lands suitable for student housing; analysis of the impact additional students and faculty will have on the existing rental inventory; research into public/private partnerships and incentives offered in college towns to address housing needs; and preparation of policies and strategies that can be pursued in Newport to promote the realization of additional student housing. Work product will include map and text amendments to the Newport Comprehensive Plan.

b. Schedule (e.g. when will work begin, project milestones, project end):

City is prepared to initiate the work as soon as grant funding is received. A consultant will be retained and Technical Advisory Committee (TAC) formed with the objective of having a draft report complete by the end of November. Adoption of a final draft will occur by the end of January 2015. Consultant will attend meetings with the TAC. A tentative schedule for the TAC might include: (1) kick-off and confirmation of project scope; (2) analysis of the impact of the additional students and faculty if no new rental housing is constructed; (3) review of buildable lands and identification of priority student housing sites; (4) partnerships and/or incentives that can be pursued to promote private investment in the construction of student housing; (5) review of draft student housing policies that can be pursued in Newport in light of the above. A second policy meeting may be needed with the TAC to ensure the consultant and staff receive adequate policy direction to finalize the necessary plan amendments.

c. Total Budget \$15,000

Please use the Budget Summary form on the next page, and any additional information as indicated in the footnotes.

3. Project Partners

List any partners such as other local governments, special districts, state agencies, or other entities. Briefly describe the role of each (e.g., will perform work under the grant; will advise; will contribute information or services, etc).

Partners will include Lincoln County, Oregon State University, Lincoln County Housing Authority and the Greater Newport Chamber of Commerce, along with representation from local developers, realtors, and members of the community engaged in the management of rental properties.

4. Match, Cost-Sharing, and Local Contribution (see page 4)

1:1 cost-sharing (match) is required on federally-funded coastal grants. Describe the type and list the amount of local contributions for the grant (see page four of this application). List other funding sources, if any, and amounts that support this project.

City of Newport and Lincoln County will provide the funding match.

5. Will work be performed by a consultant/contractor for all or part of this project?

X Yes _____ No

If yes, please describe the work to be performed by the consultant, list the anticipated amount of the contract, and provide name of prospective firm/consultant(s), if known, including address and telephone number.

Consultant will review the City's existing housing data, conduct research, and prepare meeting materials sufficient to provide the TAC with factual information and policy options in sufficient detail that they can provide policy guidance relative to the scope of work outlined above. Consultant will also prepare draft amendments to the Newport Comprehensive Plan in a format acceptable to the City. All meetings, agendas, and minutes will be coordinated and prepared by City staff. The City will also manage the plan amendment process. The City is not seeking reimbursement for its contributions.

Grant Budget Summary

NOTE: Please use the format in this table when developing a more detailed budget.

	Grant Request (from DLCD)	Grantee Match (Required)	Total Budget
Personal Services¹	_____	_____	_____
Supplies (if any)	_____	_____	_____
	\$7,500	\$7,500	\$15,000
Contract Services²	_____	_____	_____
Other³	_____	_____	_____
TOTAL⁴	_____	_____	_____

Budget notes:

1 List all personnel who will work on the project. Compute costs on the basis of the number of expected person-hours, hourly rate, and related payroll expenses for each.

2 Total Contract Services. Provide additional information on expected contract services under item 5 on page 2, above.

3 List Other expenses (e.g. printing or publishing, travel):

NOTE: all travel supported by this grant must conform to state travel rates (e.g. mileage, meals, etc).

- 4 The Total grantee match above will equal the Total Grant Request from DLCD (1:1 match). See attached for description of local contribution.

GRANT APPLICATION

page 4

Grantee Share Cost (Match) Information

Local or state “match” of Federal grants (CZM funds) may consist of:

- a. **Cash** contributed by the grantee from non-federal revenues or donated to the grantee by non-federal third parties.
- b. **In-kind** contributions (see below) made by grantee and non-federal third parties.

Cash “match” must be:

- a. Identifiable from the grantee's records;
- b. Not included as contributions for any other grant or contract;
- c. Necessary and reasonable for proper and efficient accomplishment of project objectives; and
- d. Not borne by the federal government directly or indirectly under any federal grant or contract.

For instance, funds awarded to a local government from the US Army Corps of Engineers or US Fish and Wildlife Service cannot be used as “match” against this grant.

In-kind contributions are non-monetary goods and services, as listed below, specifically identifiable to the project. In-kind contributions may be made by the grantee, other public agencies, private organizations, appointed members of advisory committees, or individuals who work on the project, and include such items as:

- a. Volunteer services will be valued at different rates depending on the volunteer function. For specialty or professional services, use wage rates consistent with compensation paid for similar work in state and local government or at rates that reflect the grantee's local labor market. For volunteers who attend or participate in committees, workshops, please use the values established by http://www.independentsector.org/programs/research/volunteer_time.html.
- b. Materials include office supplies, lumber, paper, or other supplies directly related to the project. Contributed material value should be reasonable and based on fair market value.
- c. Equipment, building, land, or office space, including depreciation and use-charges for equipment and buildings and fair rental charges for land.
- d. Employees of other organizations at regular rates for which employees are normally paid, including fringe benefits (OPE) but excluding overhead.

Establishing the value of “in-kind” should use normal accounting procedures to establish value as follows:

- a. Services - Maintain a record of volunteer services: who, when, where, and why.
- b. Documentation - Document your method of computing at the hourly rate for personal services and the cost of materials, equipment, buildings and land charges.

Rate of local match paid out: Your non-federal share (match), whether cash or in-kind, is expected to be paid out at the same general rate as the state share (as per federal requirements on OCMP). In other words, at the half-way point in the project about half of the in-kind match shall have been expended. Exceptions to this requirement may be approved by the Grants Officer based on demonstration that the schedule of tasks for the project and the rate of local match for these tasks justifies a delayed payout of cash or accounting of in-kind contributions. In any case, the recipient must fulfill the non-federal cost share commitment over the life of the award.

CITY MANAGER'S REPORT AND RECOMMENDATIONS



Agenda Item:

Report to the City Council on Possible Policies to Reduce False Alarms within the City of Newport for Police and Fire Calls.

Background:

In June the City Council heard a request from a citizen indicating that a significant amount of public resources are utilized responding to repeated false alarms for fire and police within the city. Chief Miranda and Interim Chief Murphy have been reviewing alarm ordinances and fee schedules from several Oregon cities to potentially develop an alarm ordinance and fee schedule for consideration by the City Council.

Overall, false alarms do generate expenses for the Police Department and particularly the Fire Department who may need to call in additional resources to respond to calls. Many communities have charges for false alarms received after a certain number (i.e. more than three false alarms in a 12 month period or other variations on this plan.)

Furthermore, the Fire department currently provides assists to residents in the community for when an individual has fallen and needs assistance getting back-up and other similar things. A number of individuals in the community have utilized these services dozens of times throughout the course of a year. The City Council might want to establish some sort of fee when these sorts of services are requested over a certain number of times in order to avoid abuse of the system.

It is our intent to provide a report with a draft ordinance and fee schedule for consideration by the City Council before the end of this calendar year unless the Council directs us otherwise.

Recommended Action:

I recommend the City Council approve the following motion:

I move that the City Council direct the city administration to prepare a report with a draft false alarm ordinance and fee schedule for the City Council's consideration prior to the end of the calendar year to address false alarms and other redundant types of calls for Police and Fire services.

Fiscal Effects:

There will be some cost for legal counsel review of any possible ordinance addressing false alarms. To date only staff time has been expended on this effort.

Alternatives:

Do not proceed with a false alarm ordinance and fee schedule or as suggest by the City Council.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "S. R. Nebel", written in a cursive style.

Spencer R. Nebel
City Manager



Agenda Item # _____

Meeting Date 08/18/2014

CITY COUNCIL AGENDA ITEM SUMMARY
City Of Newport, Oregon

Issue/Agenda Title Update on False Alarm Ordinance

Prepared By: Miranda/Murphy Dept Head Approval: RMM/ City Mgr Approval: _____

Issue Before the Council: Update on creation of a False Alarm Ordinance and fee structure

Staff Recommendation: Direct Staff to continue work on drafting a recommendation to Council ~~an on~~ a False Alarm Ordinance and fee schedule for Council

~~Consideration~~ consideration.

Proposed Motion: None needed. Update only.

Key Facts and Information Summary: The Council directed staff look at the need for, and the creation of a false alarm ordinance and accompanying fee schedule for response to false alarms by the Police and Fire Departments. The City does not currently have an ~~Ordinance~~ ordinance that addresses response to alarms. The City Manager then assigned the task to the Police and Fire Chief's to complete.

Chief Miranda and Chief Murphy met with the City Manager to discuss our response to intruder, fire and medical alarms and the impacts this has to our Departments. He then directed us to research existing alarm ordinances and fee structures in other jurisdictions in Oregon and present him with a recommendation that he can take to Council for their consideration.

We have obtained examples of alarm ordinances and fee schedules from the Cities of Tualatin, Oregon City, Beaverton, Tigard, Corvallis, and Roseburg. We also obtained an alarm ordinance and fee schedule ~~form from~~ from Clackamas County Fire District.

We are currently reviewing these examples and will use them to create a draft ordinance and fee schedule along with our recommendation to the City Manager. After review and approval from the City Manager, the recommendations will be presented to the Council. ~~the draft ordinance and fee schedule will reviewed by legal counsel before being presented to Council for their consideration.~~ Due to the complexities of this issue ~~and anticipation of extensive legal review our~~ expectation is to have a recommendation ready for Council consideration by the end of 2014.

Other Alternatives Considered: None at this time as this is just an update.

City Council Goals: None

Attachment List: None

Fiscal Notes: ~~There will be a cost for legal counsel review. It is impossible at this early stage to anticipate this cost. The cost for legal fees will be split between the Police and Fire Departments.~~ To date, only staff time has been expended on this project.



CITY MANAGER'S REPORT AND RECOMMENDATIONS

Agenda Item:

Sewer Main Failure at Schooner Landing Resort

Background:

As I indicated to you prior to leaving on vacation, a public city sewer line had failed at Schooner Landing causing wastewater to overflow from a manhole immediately adjacent to condominium unit 509. Despite repeated attempts, crews were unsuccessful at opening the obstruction. As a result, bypass pumping around the apparent collapse of the sewer main was initiated. The city employed the services of Central Coast Excavating on an emergency basis to realign the sanitary sewer line, setting two manholes, and rerouting the sewer around the building. 9 units were uninhabitable during the work because the power, phone and cable had to be disconnected because they were built over the top of the sewer. Work on the pipe was complete Thursday, August 7, 2014, with pavement being restored the following day.

I authorized the emergency repairs. This declaration provides a waiver of our normal procurement processes in order to get this work done. I will bring back a report to the City Council at the September 2, 2014, meeting for Council to authorize expenditures for this emergency repair.

Recommended Action:

None

Fiscal Effects:

Not determined at this time. This information will be provided to the City Council at the September 2nd meeting.

Alternatives:

None recommended.

Respectfully Submitted,

A handwritten signature in blue ink, which appears to read "S. R. Nebel".

Spencer R. Nebel
City Manager



Agenda Item #
Meeting Date

August 18, 2014

CITY COUNCIL AGENDA ITEM SUMMARY
City Of Newport, Oregon

Issue/Agenda Title: Sanitary Sewer Collapse at Schooner Landing Resort

Prepared By: TEG Dept Head Approval: TEG City Manager Approval: _____

Issue Before the Council:

Update report on sewer main failure at Schooner Landing

Staff Recommendation:

None

Proposed Motion:

None

Key Facts and Information Summary:

On Thursday, July 31st, 2014, maintenance staff at the Schooner Landing Resort reported wastewater overflowing from a manhole immediately adjacent to condominium unit 509. City of Newport wastewater crews began bypass pumping the failed structure and attempted to clean the line downstream of the manhole. The crews were unsuccessful at opening up the obstruction and were unable to see what the problem was using a sewer camera. The crew attempted to clean the line again by jetting, but their jetter nozzle became stuck in the pipe and they had to abandon it. Because the jetter nozzle became stuck, it is almost a certainty that the line had collapsed and the jetter had become stuck in the broken portions and sides of the pipe. The adjacent condominium units were built over the top of this pipe in the 1980's. After the wastewater was pumped down in the manhole, crews measured downstream and discovered the pipe failure occurred directly below the foundation wall of the south side of the building.

City staff received written permission from Schooner Landing to reroute the sanitary sewer out of the easement and into the adjacent street. Wastewater crews immediately engaged Central Coast Excavating who began work on Monday, August 4th. Crews realigned the sanitary sewer line, setting two manholes, and rerouting the sewer around the building. 9 units were uninhabitable during the work because the power, phone and cable had to be disconnected because they were also built over the top of the sewer. Work on the pipe was completed on Thursday, August 7th and pavement was restored on Friday, August 8th. A small amount of curb restoration remains to be completed at this time.

Other Alternatives Considered:

None

City Council Goals:

None

Attachment List:

- Aerial view of Schooner Landing
- Photos of sanitary sewer repair

Fiscal Notes:

Total costs for the repair are unknown but will be presented to Council at the September 1st Council Meeting.









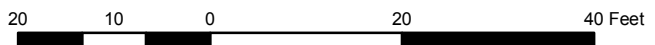
**City of Newport
Engineering Department**

169 SW Coast Highway
Newport, OR 97365

Phone: 1.541.574.3366
Fax: 1.541.265.3301

CITY OF NEWPORT, OR SCHOONER LANDING SEWER FAILURE

This map is for informational use only and has not been prepared for, nor is it suitable for legal, engineering, or surveying purposes. It includes data from multiple sources. The City of Newport assumes no responsibility for its compilation or use and users of this information are cautioned to verify all information with the City of Newport Engineering Department.



CITY MANAGER'S REPORT AND RECOMMENDATION



Agenda Item:

Approval of Addendum No. 2 to Task Order No.1 with HDR Engineering Services for the Big Creek Dams 1 & 2 Seismic Evaluation

Background:

In September of 2013, HDR Engineering Inc. was contracted to conduct a seismic evaluation and feasibility study of the Big Creek Dams 1 & 2. Addendum No. 2 initiates the last phase of the dam seismic evaluation and includes design data acquisition, analysis of parameters and engineering approach, risk analysis, engineering evaluation and corrective action concept development, preliminary environmental review, and planning report and presentation. It is expected that upon completion of this report the city will be able to select the top two or three scenarios for possible implementation.

Recommended Action:

I recommend the City Council acting as the Local Contract Review Board approve the following motion:

I move that the Local Contract Review Board authorize the City Manager to execute Addendum No. 2 to Task Order No.1 with HDR Engineering Services for the Big Creek Dams 1 & 2 Seismic Evaluation in the amount of \$303,912.

Fiscal Effects:

\$350,000 was appropriated for this phase with \$100,000 in local funds and \$250,000 in grant funds make up this amount. Work needs to be completed by June 30, 2015 in order to utilize the grant funds.

Alternatives:

None recommended.

Respectfully Submitted,

Spencer R. Nebel
City Manager



Agenda Item #
Meeting Date

August 18, 2014

CITY COUNCIL AGENDA ITEM SUMMARY
City Of Newport, Oregon

Issue/Agenda Title: Approval of Addendum No. 2 to Task Order No.1 with HDR Engineering Services for the Big Creek Dams 1 & 2 Seismic Evaluation

Prepared By: TEG Dept Head Approval: TEG City Manager Approval: _____

Issue Before the Council:

Approval of Addendum No. 2 to Task Order No.1 with HDR Engineering Services for the Big Creek Dams 1 & 2 Seismic Evaluation

Staff Recommendation:

Approve the Addendum

Proposed Motion:

I move to approve Addendum No. 2 to Task Order No.1 with HDR Engineering Services for the Big Creek Dams 1 & 2 Seismic Evaluation in the amount of \$303,912.

Key Facts and Information Summary:

In September of 2013, HDR Engineering Inc. was contracted to conduct a seismic evaluation and feasibility study of the Big Creek Dams 1 & 2. This study was broken up into several phases. Phase 1 included additional testing of the dam structures to supplement testing that was done in the fall of 2012 when the initial issues with the dams were discovered. Phase 2, implemented as Addendum No. 1 in March of 2014, included the laboratory testing of the samples taken in Phase 1.

This Addendum No. 2 comprises Phase 3, the last and final phase of the dam seismic evaluation. This phase includes several tasks including:

- Design data acquisition (updates to the seismic hazard study and site hydrology due to additional data gathered from the large Japanese earthquake of 2010)
- Analysis parameters and engineering evaluation approach
- Risk analysis
- Engineering evaluation and corrective action concept development
- Preliminary environmental review
- Planning report and presentations

The final deliverables of this phase will be a report and presentation to Council, identifying several remediation or replacement scenarios and order of magnitude costs. From this process, Council will

be able to select the top two or three scenarios for further study. The final task will involve studying these scenarios in depth and presentation of a report summarizing the findings including preliminary conceptual drawings, environmental and fish passage impacts, cost, timeframes, and impacts to operations and water quality.

Other Alternatives Considered:

None

City Council Goals:

None

Attachment List:

- Standard Addendum Form, Task Order No. 1 - Addendum No. 2 with HDR Engineering Services, Inc.
- Phase 3 - Engineering Evaluations and Concept Design, Seismic Evaluation of Big Creek Dams #1 and #2 Scope of Work

Fiscal Notes:

In October of 2013 City staff, assisted by the City's consultant Chase Park Grants, applied for a \$250,000 Oregon Water Resources Department (OWRD) Water Conservation, Reuse & Storage grant to continue the seismic stability and retrofit feasibility study on the Big Creek dams. The City of Newport's grant application was awarded an "84", the highest score of all applicants and received a funding priority rating of "High." On March 10, 2014, the City received notification from OWRD that the City was awarded the grant for the full amount of \$250,000.

In fiscal year 2013/14, the City budgeted \$300,000 for a portion of Phase 1 and 2 of this study. The grant award through OWRD requires a dollar for dollar match from the City. OWRD will allow the City to count the funds spent to date on Phase 1 & 2 as the City's match.

Further financing of \$100,000 for Phase 3 was budgeted as part of the FY14-15 budget process. These budgeted funds and the \$250,000 grant will fund Phase 3 of the study.

Grant funds must be spent by the end of the biennium ending June 30, 2015. It is staff's intent to have all phases of the study completed by this date. This will allow the City to plan for whatever remediation options are selected beginning FY 15/16.

STANDARD ADDENDUM FORM

TASK ORDER NO. 1 - ADDENDUM NO. 2

Big Creek Dams 1 & 2 Seismic Evaluation

This Addendum to Task Order No. 1 to the Engineering Services Agreement dated October 17, 2013, hereinafter called Agreement, between the City of Newport, (CITY), and HDR Engineering, Inc., (ENGINEER).

- ☐ Change in schedule:
- ☒ Change in fee: An increase of \$303,912 to Task Order No. 1 for a total contract amount of \$570,612. These changes are in accordance with *Phase 3 – Engineering Evaluations and Concept Design – Seismic Evaluations of Big Creek Dams #1 and #2* as attached.
- ☐ Modifies the Agreement in the following manner:

CITY OF NEWPORT:

By: _____

Title: _____

Date: _____

HDR ENGINEERING, INC.:

By: _____

Title: _____

Date: _____

Phase 3 – Engineering Evaluations and Concept Design

City of Newport, Oregon

Seismic Evaluation of Big Creek Dams #1 and #2

July, 2014

Introduction

HDR has performed an initial investigation on seepage, static stability, and post-earthquake stability analysis of Big Creek Dam #1 and #2 to understand the potential for large deformations and/or failure in case of a range of seismic events (subduction zone earthquakes and Yaquina earthquakes) that may occur in the area of the reservoir sites. The results of the initial site investigation and analysis program identified a high likelihood of significant damage or failure of the dams during a moderate to significant earthquake. HDR's investigation also determined that additional site characterization and evaluations were required to help refine the understanding of the site geology, and the corresponding behavior of the foundation and embankment soils at the Dam #1 and #2 sites. This initial assessment program is now being referred to as Phase 1 by HDR. HDR then developed a scope of work for a Phase 2 program of additional site investigations and laboratory testing that was approved and is nearing completion. This Phase 2 scope of work is part of an overall work plan that is designed to support the City of Newport ("City") to incrementally approve and authorize work as the evaluation progresses leading to the identification of the appropriate actions required to address seismic deficiencies at both the Dam #1 and #2 sites. Additional Phases of work include Engineering Evaluations and Concept Design (Phase 3 described in this document), Environmental Compliance (Phase 4a), Final Design (Phase 4b), and Construction Services (Phase 5) have been outlined in the work plan activities.

The scope of work for Phase 3, Engineering Evaluations and Concept Design is described in this document and will cover Task 4 through Task 9 described in the original overall work plan. Based on the outcome of the Phase 2 work, some modifications of the tasks and subtasks have been made by HDR. The Phase 3 work tasks will include the following and are described in detail in the Scope of Work section of this document:

- Task 4.0: Design Data Acquisition (Seismic Hazard Update & Site Hydrology)
- Task 5.0: Analysis Parameters and Engineering Evaluation Approach
- Task 6.0: Risk Analysis
- Task 7.0: Engineering Evaluations, and Corrective Action Concept Development
- Task 8.0: Preliminary Environmental Review
- Task 9.0: Planning Report and Presentation

In summary, Phase 3 will include updating of the seismic hazard characterization of the site, development of site hydrology that will be used to assess spillway requirements for modified dam configurations, establishment of analysis parameters through integrated evaluation of both the field and laboratory test data, updates of the previously completed seepage, static and post-earthquake stability analyses, new seismic response evaluations with Fast Lagrangian Analysis of Continua (FLAC) based on a more comprehensive geologic model of the site, and development and evaluation of alternatives for corrective actions at both Dam #1 and #2. HDR will perform an engineering analysis for existing conditions and for

alternative configurations involving corrective actions to mitigate the seismic stability problem for both dams in order to develop opinions on the preferred configuration of corrective actions. A configuration that includes the transfer of a portion or all of the water from Dam #1 to the Dam #2 site with enlargement of Dam #2. The scope of work will also include a risk analysis to confirm the level of seismic loading to be included in the design, a review of environmental conditions and clearances that will be needed, consultation with the City and the State Engineer for dam safety with the Oregon Water Resources Department (“State Engineer”), and preparation of appropriate reports and decision documents. Additional details related to the scope of work are outlined in the following sections.

Some survey information is available at both dam sites and this information will be used for the development of concepts and layouts of proposed corrective actions during Phase 3. Additional surveys, including possible bathymetric mapping of topography in the reservoirs that are suitable for final design will be completed during Phase 4.

Scope of Work

Task 4.0 Design Data Acquisition

4.1 Seismic Hazard Update including PSHA, and Ground Motions for Engineering Evaluations and Design

Objective(s)

An assessment of the seismic hazards at the dam sites was completed by Cornforth Consultants for the previous assessment of the dams. However, the understanding of the hazard and potential ground motions from an interface earthquake event along the Cascadia Subduction Zone (CSZ) has been significantly impacted by a large M8.8 subduction zone earthquake that occurred in 2010 off the coast of Chile near Concepcion, and a large (M9.0) subduction zone earthquake which occurred in April of 2011 off the northeast coast of Japan near Tohoku. The objective of this task is to update the previous seismic hazard characterization of the Newport dam site based on available documentation on the lessons learned from these recent similar hazard earthquakes in Japan and Chile. HDR and Cornforth will use updated ground motion records for detailed seismic response evaluations and design for the most recent safety evaluation and decision making by the City.

Deliverables

- Technical Memorandum summarizing the updated seismic hazard (Probabilistic Seismic Hazard Assessment – PSHA), response spectrum, and representative ground motion and design criteria to be used in the Newport dam assessment and associated conceptual and final design studies.
- Data files for alternative earthquake ground motion records selected for seismic response analyses. Earthquake ground motions scaled to three alternative peak ground accelerations (pga’s) selected from the site PSHA.

4.2 Site Hydrology

Objective(s)

Completion of significant dam embankment safety modifications typically affects related appurtenant structures such as spillways, and outlet works. Under such circumstances, current standard industry practice is to verify that the design criteria for those structures are as current as possible. For Big Creek Dams #1 and #2, the current flood hydrology design criteria were developed in 2009. HDR will review the results of the 2009 study including the adequacy of the associated inundation mapping for purposes of project risk assessment and design. If approved by the City, planning level inflow hydrograph will be developed and routed through the existing reservoirs to determine the overall safety of the existing structures relative to recently updated state and/or federal guidelines and/or requirements. HDR will identify requirements for modifications to the existing structures, or new structures associated with embankment dam modifications using the planning level hydrology confirmed under this sub task.

HDR Subtasks

- Review information on the existing hydrologic design criteria and dam break inundation mapping for the dams.
- Identify if there have been any changes to rainfall and runoff as a result of updated hydrology
- If an update of the hydrology is required, develop a scope of work and cost estimate to perform planning level evaluation to establish hydrologic design criteria for use in concept level evaluations of safety modifications at both dam sites.

Deliverables

- Technical Memorandum summarizing the data review, and hydrology criteria for the project

Assumptions

- The scope and budget for this task is based on the assumption that existing hydrology for the dams is available and that a review of the information will confirm that it is suitable for the planning studies under this scope of work.
- If the existing hydrology on file at the state is found to be out of date, any planning level hydrology developed under this task will need to be more rigorously evaluated by HDR as part of a subtask during final design. The scope of work for a final design level determination of flood hydrology would be developed by HDR and submitted to the City for approval as part of the Phase 4.

4.3 Site Survey Information

Lidar survey information including topographic mapping was previously obtained for both dam sites during the designs for the water treatment plant. The Lidar information is for above water areas in the vicinity of both dams. No bathymetric information is available for either reservoir to assist with estimating reservoir capacities and the amount of sediment that has accumulated in the reservoirs since they were constructed.

HDR believes that the available information is suitable for general planning level studies during Phase 3. Hence, no additional surveys including bathymetric surveys of the reservoirs are proposed at this time. The amount of storage capacity loss in the upper reservoir will be approximated for the Phase 3 studies.

Surveys with accuracy suitable for final design and construction will be required during Phase 4. Such above and below water (bathymetric) surveys will be performed by a licensed Surveyor.

Task 5.0 Analysis Parameters, Engineering Evaluation Approach, and Update of Seepage and Stability Analyses

Objective(s)

HDR will provide the stratigraphic (geologic) models of Dam #1 and #2 sites along with estimates of geologic and engineering analysis parameters to be used in engineering evaluations, analyses, and concept designs. HDR will prepare an approach for completion of the engineering analyses, risk assessment, and development of appropriate design criteria. HDR will also provide updates to the seepage, static stability, and post earthquake stability analyses for both the existing Dam #1 and Dam #2 sites. Based on the results of the updated seepage and stability analyses, the engineering analysis approach will describe the development and evaluation of FLAC models as may be appropriate for seismic response modeling of each existing, or for alternative modified dam configurations providing estimates of dam deformations and available freeboard following significant seismic events (Task 7).

HDR will develop, under Task 7, two alternative remediation concepts for each dam, including engineering analysis of alternative remediation configurations such as an enlarged upper reservoir capable of storing water from the lower reservoir. Specifically, the approach to seepage, stability, post-earthquake and FLAC seismic response models will be developed under this task in order that the Task 6 and 7 work is sufficient to confirm a configuration that provides appropriate seismic response.

HDR Subtasks

- Refine site characterization based on data gathered in Phase 2.0.
- Update estimates of material properties of embankment and foundation materials based on integrated evaluation of field and laboratory testing data and information gathered to date.
- Finalize approach to updating the seepage, static stability, and post-earthquake stability analysis of both Big Creek dams #1 and #2 dam based on the updated site characterization and analysis parameters, and input from the City and State Engineer.
- Perform updated seepage, static stability, and post-earthquake stability analyses for both Dams #1 and #2. The GeoStudio SeepW, and SlopeW computer programs will be used for seepage and stability analyses. Both the upstream and downstream slopes will be evaluated.
- Finalize approach to engineering evaluations under Task 7 including the development of FLAC models (Fast Lagrangian Analysis of Continua) of the existing dams or alternative modified dam configurations. It is anticipated that these analyses will be performed using representative time histories for the site scaled to a peak ground accelerations (pga's). Recurrence intervals that will be considered include 800, 2000, and 5000 years. Further, based on our experience on other similar projects, HDR anticipates that the selected load partition ranges will be suitable for supporting the risk analysis of the potential failure mode (PFM) associated with seismic loads at

the site and confirming the appropriate seismic design criteria to be used in corrective action evaluations. Other recurrence intervals may be developed and used as appropriate based on the risk analysis results and input from the state.

- Meet with the State Engineer to review the analyses and concept development approach.

Deliverables

- Summary memorandum on the meeting with the State Engineer.
- Technical Memorandum summarizing the results of the Task 5 work including updated site characterization models, analysis parameters, results of seepage, static and post earthquake stability analysis and updated work plan for the Task 6 and 7 engineering evaluations, risk analysis, and corrective action concept development.

Assumptions

- Under Task 4 HDR will update the seismic hazards developed during the Phase 1 engineering evaluations. It is anticipated that the updated seismic hazard information will also be suitable for final design. HDR's assumption is the seismic hazards along with the results of the risk analysis pending the review of the State Engineer.
- HDR assumed that local and subduction zone earthquakes with estimated recurrence intervals of up to the 1 in 5000 years will be sufficient for planning level design work and approved by the State Engineer.
- If either dam is found to have a post earthquake factor of safety that is less than one using the updated site characterization and analysis parameters, major modifications will be required. Under this circumstance, the results of post-earthquake stability analyses models are sufficient to confirm the safety of the structure and the need for corrective actions. No FLAC modeling is required. However, if the post-earthquake factors of safety are found to be in the range of 1.0 to as high as 1.5, seismic response evaluations of the dam slopes (both upstream and downstream) will be needed to estimate the structure deformations, loss of freeboard, and to verify the need for corrective actions.
- FLAC analyses will be performed for the proposed modified dam configurations. Should the results of stability analyses indicate otherwise (i.e. post-earthquake factors of safety between 1.0 and 1.5), additional FLAC analyses will be necessary. Under those circumstances, we will notify the City and modify the scope and budget for the Task 7 work accordingly.
- Potential remediation strategies will be described at a pre-conceptual level for engineering evaluation purposes. Conceptual design will not be performed until Task 7. Only the scope of engineering analyses and evaluations required to complete a conceptual (configuration and budgetary) design will be identified under this task.

Task 6.0 Risk Analysis

Objective(s)

The current state and federal requirements and/or guidelines for selecting and utilizing design criteria for a hazard such CSZ earthquake event are emerging. Identifying the appropriate design criteria (i.e. the

return period and corresponding estimates of peak ground accelerations and representative ground motions) that is 1) currently acceptable to the State (OWRD), 2) consistent with the level of risk the City is willing to take for the dams and related water supply, and 3) that anticipates to some reasonable degree changes to design and safety requirements as the understanding of the CSZ evolves over the next 5 to 10 years requires further evaluation. Task 5's objective is to use a risk analysis framework to examine a combination of the CSZ PSHA information developed under Task 4, along with estimates of system response identified under Task 5 and Task 7, along with anticipated consequences associated with loss of service of the reservoirs and/or dam failure to identify the appropriate design criteria for the dams.

HDR Subtasks

- Review previously completed inundation mapping and confirm potential consequences associated with failure of either or both the Big Creek Dams #1 and #2.
- Evaluate the results of work under Tasks 4, 5, and portions of Task 7 as appropriate to identify a possible range of seismic design criteria for the dams. Summarize the findings in a Technical Memorandum and power point presentation along with recommendations of the design criteria to be used for the dam.
- Present the findings and recommendations to the City
- Present finding to the State Engineer
- Decide in corporation with the City and State Engineer baseline for design associated with risk level

Deliverables

- Draft Task 6 Technical Memorandum and Power Point presentation
- Summary documentation of the presentations to the City and State Engineer
- Final Task 6 Technical Memorandum

Assumptions

- The risk analysis framework developed by the U.S. Bureau of Reclamation will form the basis for the risk analysis work under this Task. HDR will use abbreviated methodology and documentation in order to minimize the costs associated with this task. HDR will use professional elicitation and judgment based on our previous risk estimating experience such as recently completed studies at Scoggins Dam for Clean Water Services and the U.S. Bureau of Reclamation.
- The inundation mapping, including the assumed breach parameters for Dams #1 and #2, are adequate to support the risk analysis work under this task. This includes a combined failure scenario following a large earthquake event which will likely define the maximum potential consequences including the potential for loss of life downstream of the dams. Should the existing information be insufficient for the risk analyses, HDR will prepare and submit a scope and budget amendment for supplemental breach and inundation modeling to the City for approval.

Task 7.0 Engineering Evaluations, and Corrective Action Concept Development

Objective

HDR will identify potential corrective action strategies to provide adequate seismic safety for current storage levels in Dams #1 and #2, as well as an alternative that increases storage behind Dam #2 for the potential transfer of water from Dam #1 and to recover storage that has been lost due to sediment accumulation. HDR will also develop a conceptual plan for both dams reflecting the seismic design criteria level identified as part of Task 6.

HDR Subtasks

- Develop cross-section models and perform seismic response analysis with FLAC for modifications to the existing, and of an enlarged dam #2 cross section. Both the upstream and downstream slopes of Dams #1 and #2 will be evaluated as outlined in the work plan developed as part of Task 5.
- Identify potential remediation strategies to produce acceptable post-earthquake factors of safety and tolerable deformations for earthquakes recurrence intervals identified as part of the risk analysis task.
- Identify other site improvements that would be required for remediation of the existing or enlarged dam including roads, spillway, outlet works, fish passage, and the pump station
- Develop configuration level layouts for up to 3 corrective action alternatives. Prepare screening level cost estimates, schedules, and descriptions of limits of impacts.
- Perform alternatives evaluation based on decision criteria developed cooperatively with the City. Identify the preferred corrective action configuration for both dams and related infrastructure.
- Identify the preferred corrective action alternative for each site
- Develop conceptual design for the preferred corrective action configuration for both Big Creek Dam #1 and #2, as appropriate.
- Present to the City the findings and conclusions
- Present finding to the State Engineer.
- Update alternatives evaluation and conceptual designs in response to comments from the City and State Engineer

Deliverables

- Draft Technical Memorandum summarizing the engineering analyses, and development and evaluation of alternatives for corrective actions.
- Summary documentation of the meetings with the City and State Engineer
- Final Technical Memorandum

Assumptions

- No FLAC analysis models will be performed for the current configurations of Dams #1 and #2.
- A total of three FLAC analysis models will be developed and analyzed for alternative remediation concepts. These concepts would include 1 configuration for Dam #1, 1 configuration for Dam

#2, and an enlarged Dam #2 to contain a combined capacity of the existing dams plus and estimated amount of sediment loss in the upper reservoir. Up to two alternative ground motions from the identified seismic design criteria under Task 6 will be evaluated for each configuration.

- We will use supplemental SEEPW and SLOPEW models of the alternative configurations to estimate post-earthquake factors of safety and establish the target configuration prior to performing the FLAC analyses described above.

Task 8.0 Preliminary Environmental Review

Objective(s)

HDR will identify potential environmental impacts based on Task 7 and perform a preliminary environmental review to identify permit requirements for the alternatives identified in Task 7. This review will not include any permitting processes nor is it a due diligence analysis. This task will provide an overview of site constraints, major permitting risks, permits and timelines, and future studies associated with the remediation of the dams.

HDR Subtasks

- Develop a list of necessary environmental permits including durations of each permit and anticipated associated costs for the alternatives from Task 7.
- Develop an estimate of the permitting schedule.
- Identify future studies required for permitting.
- Identify site constraints and major risks for the permitting.

Deliverables

- Technical Memorandum summarizing the permitting activities. This will include an outline only. Scope of work for these activities to be performed during final design.

Task 9.0 Summary Planning Report, and Presentations

Objective(s)

HDR will prepare a planning report of the Big Creek Dams #1 and #2 stability under static and seismic loading conditions that includes the description of alternatives for remediation of the existing or enlarged dam, and present a summary of all the Phase 3 work including the recommendation for corrective actions.

HDR Subtasks

- Prepare a draft of the summary planning report.
- Prepare and present the study results and findings to the City.
- Present finding to the State Engineer.
- Include comments from City and State Engineer in the final report

Deliverables

- Draft Summary Planning Report.

- Meeting presentations and documentation
- Final Summary Planning Report.

CITY MANAGER'S REPORT AND RECOMMENDATIONS



Agenda Item:

Authorization to Procure T770 Bobcat Compact Track Loader with Forestry Cutter Attachment

Background:

In the fiscal year 14-15 budget the City Council has appropriated \$125,000 for the purchase of a skid loader with a forestry mulcher/cutter that works very much like a stump grinder. Public works staff reviewed a number of units with the unit best fitting the needs of the department being T770 Bobcat compact track loader. This loader will be used to apply the wastewater treatment sludge on approximately 170 acres of the airport property east of the runways.

Recommended Action:

I recommend the City Council acting as the Local Contract Review Board approve the following motion:

I move the authorization to purchase T770 Bobcat compact track loader with forestry Cutter attachment in the amount of \$103,056.

Fiscal Effects:

\$125,000 was appropriated in the current fiscal year budget for the purchase of this equipment.

Alternatives:

None recommended.

Respectfully Submitted,

Spencer R. Nebel
City Manager



Agenda Item #
Meeting Date

August 18, 2014

CITY COUNCIL AGENDA ITEM SUMMARY
City Of Newport, Oregon

Issue/Agenda Title: Authorization to Procure T770 Bobcat Compact Track Loader with Forestry Cutter Attachment

Prepared By: TEG Dept Head Approval: TEG City Manager Approval: _____

Issue Before the Council:

Authorization to procure T770 Bobcat compact track loader with forestry Cutter attachment

Staff Recommendation:

Approve the procurement

Proposed Motion:

I move to approve the procurement of a T770 Bobcat compact track loader with forestry Cutter attachment in the amount of \$103,056.

Key Facts and Information Summary:

The City of Newport's Wastewater Treatment Plant produces a Class A sludge from the solids taken from the City's wastewater. A Class A sludge is treated and heated through a pasteurization process making it safe to apply on land with no restrictions. Last year the City produced over 1,000,000 lbs of Class A sludge.

The City land applies this sludge on approximately 170 acres of the airport property east of the runways. This area is rugged and constantly growing with brush. Wastewater crews have used several methods to attempt to keep the brush under control and the current equipment the City owns has proven inadequate, because the equipment is not designed to clear brush from that large of an area in that rugged terrain.

After testing several pieces of equipment from multiple vendors over several years, City staff has found the most suitable piece of equipment to do the job is a skid loader with a forestry mulcher/cutter that works very much like a stump grinder. The particular unit selected is a T770 Bobcat compact track loader. This unit will be equipped with a forestry mulcher/cutter head, a backup camera, and winch; to pull the unit out when it will invariably get stuck in the multiple ravines on the property. Also to be purchased is a combination bucket and pallet forks to make the unit versatile for other tasks when not clearing brush.

Other Alternatives Considered:

- Using existing equipment (not feasible)
- Contracting someone to clear the property (too expensive)
- Disposing of sludge elsewhere (not enough demand)
- Converting the sludge into a saleable product (too expensive/not cost effective)
- Other types of equipment

City Council Goals:

N/A

Attachment List:

- T770 Bobcat Compact Loader with Forestry Cutter quote

Fiscal Notes:

The cost of the T770 Bobcat Compact Loader with Forestry Cutter and misc. attachments is \$103,056. \$125,000 has been budgeted for this equipment in the FY15 budget under Wastewater Treatment Plant cost center under Capital Equipment Outlay (304-3410-7006).



Bobcat®

Product Quotation

Quotation Number: 19066D019272

Date: 2014-07-22 12:02:35

Ship to	Bobcat Dealer	Bill To
CITY OF NEWPORT Attn: JOHN RITCHEY 169 S.W. COAST HWY. NEWPORT, OR 97365 Phone: (541) 574-3371	Bobcat of Central Oregon, Bend, OR 63084 CRUSHER AVENUE BEND OR 97701 Phone: (541) 389-2347 Fax: (541) 385-6120 Contact: Barry Penington Phone: (541) 389-2347 Fax: (541) 385-6120 Cellular: (541) 419-8408 E Mail: bpenington@bobcatco.com	CITY OF NEWPORT Attn: JOHN RITCHEY 169 S.W. COAST HWY. NEWPORT, OR 97365 Phone: (541) 574-3371

Description	Part No	Qty	Price Ea.	Total
T770 Bobcat Compact Track Loader (iT4)	M0185	1	\$54,093.00	\$54,093.00
Selectable Joystick Controls (SJC)	M0185-R01-C04	1	\$1,925.00	\$1,925.00
A91 Option Package	M0185-P01-A91	1	\$6,719.00	\$6,719.00
Cab Enclosure with Heat and AC	Engine Block Heater			
High Flow Hydraulics	Attachment Control Kit			
Sound Reduction	Cab Accessories Package			
Hydraulic Bucket Positioning	Two Speed Travel			
Power Bob-Tach	3-Point Seat Belt			
Deluxe Instrument Panel				
Keyless Start				
Air Ride Seat	M0185-R05-C12	1	\$209.00	\$209.00
Roller Suspension Carriage	M0185-R21-C04	1	\$1,113.00	\$1,113.00
Radio	M0185-R26-C02	1	\$278.00	\$278.00
60" Forestry Cutter with 2-spd	7204127	1	\$22,195.00	\$22,195.00
--- Engine Compartment Seal Kit	7190789	1	\$669.00	\$669.00
--- Forestry Applications Kit, M-Series	7230523	1	\$5,348.00	\$5,348.00
84" Combination Bucket	7167314	1	\$3,786.00	\$3,786.00
--- Port Relief	6684646	1	\$88.00	\$88.00
48" Hydraulic Pallet Fork	6905425	1	\$2,430.00	\$2,430.00
Description	Part No	Qty	Price Ea.	Total
84" BOLT ON CUTTING EDGE		1	\$390.00	\$390.00
50 hour ASI first service oil and filters		1	\$0.00	\$0.00
Delivery to your jobsite free of charge		1	\$0.00	\$0.00

Total of Items Quoted *Backup camera = 1357⁰⁰* \$99,243.00
 Quote Total - US dollars *15K winch = 2456⁰⁰* \$99,243.00

Notes:

- *PRICE QUOTE INCLUDES THE OIL AND FILTERS FOR THE 50 HOUR "FIRST SERVICE"
- *PRICE QUOTE INCLUDES SERVICE MANUAL
- *PRICE QUOTE INCLUDES DELIVERY TO CITY OF NEWPORT OREGON FACILITY

Total 103,056⁰⁰

All prices subject to change without prior notice or obligation. This price quote supersedes all preceding price quotes.
 Customer must exercise his purchase option within 30 days from quote date.

Customer Acceptance:

Purchase Order: _____

Authorized Signature:



CITY MANAGER'S REPORT AND RECOMMENDATIONS

Agenda Item:

Approval procurement of RAVO 5-series Street Sweeper

Background:

The City Council has appropriated \$220,000 in the fiscal year 14-15 budget to replace the 2009 Schwarze A7000 Street Sweeper which has reached the end of its useful life. The public works staff reviewed several types of sweepers and elected to purchase a RAVO 5-series equipped with a third articulating broom and a wanderhose, which is a hose used for cleaning catch basins.

Please note that the sweeper has actually been purchased by the city based on the approval of the appropriation of the funds by the City Council and past practices. It is my understanding that this may not have been required in the past but through my reading of the purchase policy a separate authorization to purchase is required.

As an organization with have had some confusion over our purchasing policies and as I have indicated previously one of my priorities of the next six months is to develop clearer and more understandable procedures for purchasing within the city. I am requesting that the Local Contract Review Board retroactive authorize this purchase in the amount of \$195,240 after trade-in. I apologize for any confusion on this purchase.

Recommended Action:

I recommend that the City Council acting as the Local Contract Review Board approve the following motion:

I move approval of the procurement of a RAVO 5-series Street Sweeper in the amount of \$195,240 after trade-in value for the existing Schwarze A7000 Street Sweeper.

Fiscal Effects:

\$220,000 was budget in the current fiscal year in the capital outlay fund for this purchase.

Alternatives:

None recommended.

Respectfully Submitted,

Spencer R. Nebel, City Manager



Agenda Item #
Meeting Date

August 18, 2014

CITY COUNCIL AGENDA ITEM SUMMARY
City Of Newport, Oregon

Issue/Agenda Title: Approve procurement of RAVO 5-series Street Sweeper

Prepared By: TEG Dept Head Approval: TEG City Manager Approval: _____

Issue Before the Council:

Approval of procurement of RAVO 5-series Street Sweeper

Staff Recommendation:

Approve the procurement

Proposed Motion:

I move to approve the procurement of a RAVO 5-series Street Sweeper in the amount of \$195,240.

Key Facts and Information Summary:

The City's existing 2009 Schwarze A7000 Street Sweeper has reached its useful life. This piece of equipment is run for several hours daily and is increasing in cost annually to operate. It has recently experienced several very costly breakdowns and is doing an increasingly poor job of sweeping because it is wearing out. In the industry, it is what is referred to as "tired."

Staff have reviewed several types of sweeper and has chosen a RAVO 5-series equipped with a third articulating broom and a wanderhose, which is a hose used for cleaning catch basins. The third articulating broom is mounted on the front of the sweeper and can be moved to sweep in difficult locations where the main sweeper cannot reach, or on top of curbs and sidewalks while the sweeper runs alongside.

Procurement of this sweeper was budgeted in the FY15 budget under Capital Outlay Equipment at \$220,000. This memo and motion, unfortunately, is a bit after the fact since the equipment has already been purchased. This occurred due to an error on my part because I mistakenly believed that authorization to procure the equipment was received upon approval of the budget. After discussion with the City Manager, I understand that the budget approval approves the appropriation only, and the actual approval of purchases over \$50,000 must be authorized via motion by the City Council. Please accept my apologies for this error.

Other Alternatives Considered:

- Not replacing the sweeper at this time
- Choosing an alternative piece of equipment

City Council Goals:

N/A

Attachment List:

- Enviro-Clean Equipment, Inc. Invoice for RAVO 5-series Street Sweeper

Fiscal Notes:

The cost of the RAVO sweeper is \$225,240. The City is receiving a \$30,000 trade in value for the existing Scharze A7000 sweeper. This unit will be refurbished and sold to another user. The total cost for the new sweeper after trade-in is \$195,240. This cost has been budgeted in the FY15 budget in Storm Drain Maintenance as a Capital Equipment Outlay (302-3220-7003).

Enviro-Clean Equipment, Inc.



2395 NW Eleven Mile Ave
Gresham, OR 97030
Ph: 503.491.3393
Fax: 503.491.2283

INVOICE

DATE	INVOICE #
7/21/2014	M14-072101

BILL TO
City of Newport Attn: Accounts Payable 169 SW Coast Hwy. Newport, OR 97365

SHIP TO
City of Newport Attn: Receiving 169 SW Coast Hwy. Newport, OR 97365

P.O. NUMBER		TERMS	SALES REP	DATE SHIP	VIA	Prepared by:
302-3220-7003		Net 30	FS	7/21/2014	Delivered	TS
ORDERED	SHIPPED	PART #	DESCRIPTION		PRICE EACH	AMOUNT
1	1		Fully equipped Demo RAVO 5-Series Sweeper with third broom and wand/hose VIN XL95FCH4CE2020243		225,240.00	225,240.00
1			Trade in of Schwarze A7000 SN 09-A7000-0315		-30,000.00	-30,000.00
<div>302-3220-7003</div> <div>Paul Schmidt 7/22/14</div>						
Thank you for your business.				Total		\$195,240.00
SN:		VIN:		Payments/Credits		\$0.00
		XL95FCH4CE2020243		Balance Due		\$195,240.00

Note: A 1-1/2% interest, per month,
may apply to invoices over 30 days.

Make all checks payable to Enviro-Clean Equipment, Inc. PLEASE INCLUDE INVOICE NUMBER ON YOUR CHECK.